others, citizens of Covington, Kentucky, in favor of an appropriation for education in Alaska—to the Committee on Education and Labor.

By Mr. URNER: The petition of John C. Kearney, for legislation for the relief of soldiers of the late war confined in confederate prisons—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. VAN AERNAM: The petition of 266 citizens of Chautauqua County, New York, for legislation to regulate immigration, securing protection of immigrants by the Government, to repress, as far as possible, the shipment of diseased and infirm persons, paupers, and criminals, and to provide for the return of such criminals, paupers, and infirm persons to the country whence they came—to the Committee on Commerce.

By Mr. VANCE: Memorial of W. C. Evans, of Cherokee County, North Carolina, relative to the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. YOUNG: The petition of Acker, Merril & Condit, grocers of New York City, for the passage of a bill imposing a tax on glucose—to the Committee on Ways and Means.

The petition of Samuel Hall was reported by the Committee on Naval Affairs, under clause 2 of Rule XXII, and referred to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *April* 21, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

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

PETITIONS AND MEMORIALS.

Mr. PENDLETON presented a petition of the Board of Trade and Transportation of Cincinnati, and a petition of the Chamber of Commerce of Cincinnati, praying for the passage of the bill (H. R. No. 5380) to authorize the construction of bridges across the Ohio River, and to prescribe the dimensions of the same; which were referred to the Committee on Commerce.

Mr. DAVIS, of West Virginia, presented several petitions of citizens of West Virginia, praying for the passage of the bill providing that all distilled whiskies which are in bond on the date of its final passage shall remain in bond for an indefinite period, instead of being subject to withdrawal within three years as is now the case; which were referred to the Committee on Finance.

Mr. GROOME presented the petition of Philip W. Downes and 40 others, citizens of Caroline County, Maryland, praying for the removal of taxes upon national banks, and the repeal of the law requiring revenue stamps to be affixed to bank-checks; which was referred to the Committee on Finance.

Mr. CALL presented a petition of citizens of Jacksonville, Florida, praying for the removal of New Berlin Shoals in the Saint John's River, in that State; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. BLAIR. I am directed by the Committee on Education and Labor to report back the bill (S. No. 151) to aid in the establishment and temporary support of common schools. I ask that the accompanying report be read, it being but a few lines.

The Acting Secretary read the report, as follows:

The Committee on Education and Labor, to whom was referred Senate bill No. 151, entitled "A bill to aid in the establishment and temporary support of common schools," have considered the same, and have decided to report it back to the Senate without amendment and without recommendation as to the superintendence of expenditure and other details of the bill.

A majority of the committee is in favor of and recommends the appropriation of money from the Treasury to aid in the establishment and temporary support of common schools, the same to be distributed to the several States and Territories for a limited period of time and upon the basis of illiteracy.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar, and the report will be printed under the rule.

Mr. BUTLER, from the Committee on Territories, to whom was referred the bill (S. No. 153) establishing courts of justice and record in the Territory of Alaska, and for other purposes, reported adversely thereon; and the bill was postponed indefinitely.

Mr. BUTLER. I am instructed by the Committee on Territories to report back the bill (S. No. 1153) providing for the organization of the district of Southeastern Alaska, and providing for a civil government therefor; also a memorial of citizens of Alaska, and a memorial of the Board of Trade of Portland, Oregon, upon the subject. The memorials have been considered by the committee in connection with the bill, and I am instructed to report a substitute for the bill, accompanied by a report.

The PRESIDENT *pro tempore*. The substitute will be treated as an amendment to the bill. The bill will be placed on the Calendar, and the committee will be discharged from the further consideration of the memorials.

Mr. DAWES, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1725) for the relief of certain settlers on the Duck Valley Indian reservation in Nevada, reported it with an amendment.

Mr. PLATT, from the Committee on Pensions, to whom was referred the petition of Harriet M. Owen, praying for a pension, submitted a report thereon, accompanied by a bill (S. No. 1759) granting a pension to Harriet M. Owen.

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

He also, from the same committee, to whom was referred the bill (H. R. No. 3833) for the relief of Mrs. Maria B. Craig, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 620) granting a pension to Susan Jeffords, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1379) granting a pension to William H. Richardson, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1330) granting a pension to Catherine Greybig, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2148) granting a pension to Catherine Silvey, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1505) granting an increase of pension to John D. Terry, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1024) increasing the pension of Julia A. Chambers, 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 bill (H. R. No. 137) granting a pension to the heirs of Captain Christopher T. Dunham, deceased, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1390) for the relief of William H. Hill, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1813) to restore to the pension-roll the name of Martha A. Beerbower, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 380) granting a pension to John B. Stone, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1469) for the relief of Albert Arrowsmith, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Alpheus T. Palmer, praying 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.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2290) for the relief of Robert Pelkey, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1479) granting a pension to Mary C. Thomson, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. GARLAND, from the Committee on Territories, to whom was referred the bill (S. No. 1704) to amend section 1860 of the Revised Statutes so as not to exclude retired Army officers from holding civil office in the Territories, reported it without amendment.

Mr. SLATER, from the Committee on Pensions, to whom was referred the bill (S. No. 1196) for the relief of Mary McMahon, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2031) for the relief of Eli D. Watkins, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4661) granting a pension to Edmund Eastman, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. MCMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 4229) to amend the general incorporation law of the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1350) to amend the general incorporation law of the District

of Columbia, asked to be discharged from its further consideration, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 896) concerning the land records of the District of Columbia and for the security of land titles in said District, reported it with amendments.

BILLS INTRODUCED.

Mr. SEWELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1760) for the erection of a public building at Camden, New Jersey; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1761) for the protection of actual settlers against fraudulent homestead entries; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DAVIS, of West Virginia, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1762) to amend the laws with reference to elections in West Virginia; which was read twice by its title.

Mr. DAVIS, of West Virginia. A similar bill has been passed, I understand, by the House. I move that the bill be referred to the Committee on Privileges and Elections, and I ask that that committee take it up at as early a day as they can, and act upon it.

The motion was agreed to.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1763) for the relief of Francis L. Valle; which was read twice by its title, and, together with the accompanying papers, referred to the Committee on Claims.

Mr. MORRILL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1764) authorizing the restoration of the name of Thomas H. Carpenter, late a captain in the Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers; which was read twice by its title, and referred to the Committee on Military Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 5221) to amend section 3066 of the Revised Statutes of the United States.

The message also announced that the House had passed the bill (S. No. 26) to amend section 2326 of the Revised Statutes, in regard to mineral lands, and for other purposes.

ENROLLED BILLS SIGNED.

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

A bill (H. R. No. 5221) to amend section 3066 of the Revised Statutes of the United States, in relation to the authority to issue warrants; and

A joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriation for public printing and binding for the fiscal year ending June 30, 1882.

CENSUS PUBLICATIONS.

Mr. BECK submitted the following resolution, which was read:

Resolved, That the Select Committee on the Census be instructed to inquire into the number and character of subjects being prepared for publication under the direction of the Census Bureau, and to report to the Senate as to the cost of preparing and printing them and the probable time required before they will be ready for distribution, together with such information as the committee may think necessary to lay before the Senate.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. BECK. I ask the indulgence of the Senate to say a word upon this subject. Our attention was on yesterday called pretty sharply to the subject by the deficiency bill in relation to printing, the debate showing that it run up to somewhere near $3,000,000 for the current year, an increase of nearly $1,000,000 over last year, and still more startling information was given by the Senator from Massachusetts, [Mr. HOAR,] in these words:

Will the Senator from Iowa permit me to say that I have been informed, on what I regard as very high authority, that the printing of the census reports will cost about $2,700,000.

The Senator from Iowa having spoken of it as $1,500,000.

That is the first estimate. I am very much afraid that it will run up to at least double that sum, nearly equal to any of our extravagant river and harbor bills, more than the committee has asked for the improvement of the Mississippi River. What the subjects are which require this great sum to print I think the Senate ought to know. To illustrate why I make these remarks, I hold in my hand a very interesting work from the Department of the Interior, entitled "Tenth Census of the United States, Francis A. Walker, Superintendent." Under the title "Social Statistics of Cities," giving the "history and present condition of New Orleans, Louisiana, and report on the city of Austin, Texas, by George E. Waring, jr., expert and special agent, and George W. Cable, assistant, for New Orleans," I find they take up and illustrate the early history of New Orleans. There are maps and plates showing how the present site of New Orleans appeared at the time of its discovery; how the city appeared in 1708, and in another fine engraving it is shown how it appeared in 1728; how it appeared again some years afterward, in 1763, in 1770, and so on, with a history of all the Indian wars, a history of the war of 1812; a history of everything connected with it, all very interesting, no doubt; but what that has to do with the present census I am not aware. I cannot see what it has to do in a census report.

I happen to live in a very interesting city, and if we are going to have the history of every city written and published by Congress, the history of Lexington would form a very interesting episode in this report. It was named when the news was received of the battle of Lexington, Massachusetts. The story of the struggle between the schoolmaster and the wildcat might be told, and how the great-grandfather of the present Secretary of War shot the Indian chief out of the top of the sycamore tree which still stands near the old Bryan Station fort, and the history of the battle of Blue Lick, and everything connected with it might be written. The writer might go into our celebrated stock of cattle and horses, and show how, after the whisky rebellion of 1792, the Pennsylvania Germans floated down the Ohio to Limestone, now Maysville, and how the Hessians who came along were driven still further on through the settlements in Bourbon and Fayette. A very interesting work might be made in regard to the blue-grass region. I want the committee to say whether the history of each city is to be written, and if so written, I should like the history of Lexington written. I would like to help do it.

Mr. PENDLETON. And with pictures, too; especially of your court-house.

Mr. BECK. Yes; and I want pictures, too, which will show our race-horses and our court-house, which the older farmers yet say, having been good enough for Mr. Clay, is good enough for us. We have tried to have bomb-shells and everything else applied to that relic to get clear of it. It seems to me, all joking aside, that we are going on absurdly, and there must be some check put upon this business of writing local histories at public expense, and the Committee on the Census ought to look into it. I understand everybody now who wants to immortalize himself as a distinguished author is writing a book about almost anything he wants to, and the taxpayers have to foot the bills, and very extravagant bills at that. I am glad I was furnished with this history of New Orleans; it gave me the history of the creoles, of the early Indian wars, and a number of very interesting things which I did not know much about; still it seems to me we are going too far. I hope the resolution will be adopted, and that the inquiry will be made.

Mr. PLUMB. I wish to offer by way of suggestion a resolution which I prepared last evening at the close of the debate, designed to accomplish the same purpose.

Mr. BECK. Perhaps it is better than mine.

Mr. PLUMB. At the close of the debate last night which resulted in the passage of the printing deficiency appropriation bill, I drew up a resolution for the purpose of having it presented then, but in the hurry of adjournment it was not done. I offer it by way of suggestion to cover the same point.

The PRESIDENT *pro tempore*. The proposed resolution will be read for information.

The Acting Secretary read as follows:

Resolved, That the Superintendent of the Census report to the Senate the number of volumes of which the report of the census of 1880 will consist, the subjects of each, the order in which they will be prepared for publication, and as nearly as may be the time within which each volume, including the compendium, will be ready for the Printer, and also the number of pages of each.

Mr. BECK. I think it would be better to let our committee look into the matter and give us the information. They may be able to tell us many things which perhaps the Census Bureau are not at liberty to state.

Mr. PLUMB. I am not going to press the resolution I offered, but only wish to say that I think in the first place we ought to have the information.

Mr. ALLISON. I should be glad to have the resolution of the Senator from Kentucky [Mr. BECK] read in order to see what it is.

The Acting Secretary read the resolution of Mr. BECK.

Mr. PLUMB. I withdraw the resolution I offered.

Mr. SHERMAN. I think there ought to be a limitation added to the resolution prohibiting the publication of any more of these documents of the Census Bureau till the order of Congress.

Mr. BECK. I thought the committee would report on that subject, and we should then be better advised.

Mr. HALE. If the Senator from Ohio will allow me, let me ask, would not what he suggests be more fitting at the time when the Committee on the Census reports upon the subject-matter? Then, on the information given by the committee a prohibition of the kind indicated by the Senator from Ohio may be adopted; but it seems to me it would be better to withhold it till after this investigation.

Mr. SHERMAN. Provided it is done speedily my object will be attained. My attention has been called to the enormous bulk and the great expense of printing these folio volumes containing a multitude of details that are not necessary at all to the census proper.

Mr. BECK. I agree with the Senator from Ohio.

Mr. SHERMAN. I have no objection to the publication widespread of the census returns so far as they relate to population and production, but when they go beyond that and give as they do in one

large folio volume a history of all the debt of the United States, copying and compiling from our common Treasury reports, from the ordinary finance reports of the Government, information that is open to the public and known to thousands, and print it as part of the census report of 1880, it seems to me it is an unnecessary expenditure of the public money. Unless there is some express provision of law about it, I should like to see it limited and controlled.

Mr. PLUMB. It ought to be in fairness stated that the publication to which the Senator refers is only the printing of a limited number of volumes for the use of the Census Bureau itself. Under the law which creates that bureau a limited appropriation of $10,000 was made for the printing of that bureau, and it is not done under the general law providing for printing; so that no other numbers will be printed except those already printed, even if Congress takes no action whatever. The type, I understand, which has been used in printing these volumes has been distributed.

Mr. SHERMAN. The cost of composition must be very large indeed.

Mr. PLUMB. It is large.

Mr. SHERMAN. If these volumes are printed merely for the benefit of the bureau, only a few copies, they ought to be printed in cheaper form and not in the most expensive form which could have been adopted. I do not see myself any object in printing just for the Census Bureau documents so expensive as these, for after the composition the cost of printing a greater number of volumes would not be so great. If they propose to print all these returns first and then distribute the type and reset it again, it would involve us in an expenditure of $2,000,000 or $3,000,000.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution of the Senator from Kentucky, [Mr. BECK.]

The resolution was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. MORRILL, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

SIXTH NORTH CAROLINA COLLECTION DISTRICT.

Mr. VANCE. I ask unanimous consent of the Senate to call up a resolution submitted by me on the 2d day of March last for the appointment of a committee to investigate the affairs of the sixth North Carolina collection district.

The PRESIDENT *pro tempore*. The resolution is in order without asking unanimous consent. It is in order under the Anthony rule if its consideration is requested.

Mr. VANCE. Then I request the Senate to take up the resolution.

The Senate proceeded to consider the following resolution, submitted by Mr. VANCE on the 2d of March:

Whereas the cost of collecting the internal-revenue tax in the sixth collection district of North Carolina is near 60 per cent., being greater than that of any other district in the United States; and

Whereas there are many and serious charges of corruption and misconduct against the officers in charge of the execution of these laws made openly in the newspapers and elsewhere, which charges are generally believed: Now, therefore,

Be it resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the condition of affairs in said State with reference to said charges and complaints, with ample powers to compel the appearance of witnesses, to administer oaths, employ a stenographer and clerk, and do all other necessary things in the premises.

Mr. SHERMAN. I have no objection to any investigation which the Senator desires to make; he shall have his own way in regard to the matter of the investigation; but the preamble ought to be stricken out. That is not necessary at all to the investigation. It recites what is disputed. The collector of that district himself demands the investigation; and while I agree to it, at the same time these recitals ought not to be set out. I therefore wish the preamble omitted, and simply an order made for the investigation.

The PRESIDENT *pro tempore*. The question will be taken first on agreeing to the resolution, and then the question will next be on adopting the preamble.

Mr. SHERMAN. I ask the Secretary to read the resolution by itself.

The Acting Secretary read the resolution.

Mr. SHERMAN. It should read "in the sixth collection district of North Carolina with reference to charges and complaints," instead of "in said district."

Mr. VANCE. I suppose it is necessary to lay some ground for the information of the Senate as the basis of its action; and as the resolution refers to the statement in the preamble, it would involve the necessity of amending the resolution if the preamble were stricken out.

Mr. MORRILL. Only a word or two.

Mr. SHERMAN. We could insert a word or two. The fact that the Senator states that there are some charges made is itself a sufficient foundation for the resolution. I think the resolution should be amended. It is not right to set out such a preamble.

Mr. VANCE. Yes, sir; but I suppose the resolution would have to be amended in order to prescribe the limits and powers of the committee.

Mr. SHERMAN. That can be done by simply saying "charges which have been made," and so on. The Secretary can do that by inserting a single word.

Mr. RANSOM. The preamble does not say that the charges are true.

The PRESIDENT *pro tempore*. The preamble asserts that it has been alleged.

Mr. SHERMAN. And is "generally believed." I think it is sufficient first to say that charges have been made. The resolution may be easily modified.

Mr. VANCE. I am willing to have the preamble amended by striking out the words "which charges are generally believed."

Mr. ALLISON. It seems to me it is rather an extraordinary proceeding to have an investigation by three Senators of a collector of a single collection district. I do not understand why we should be called upon to make an investigation, unless there are some very distinct charges openly and fully made in this Chamber.

Mr. VANCE I can make them to the satisfaction of the Senator from Iowa, on information and belief. I have stated that charges were openly made in the country, and were generally believed, of gross corruption and malpractice in the collection of the revenues of the United States in that district.

Mr. ALLISON. May I ask the Senator what has become of the collector who is charged to be guilty of this corruption? Is he still in office?

Mr. VANCE. That is what I cannot answer. Here are some matters that the Senator might be made aware of if we were in secret session, of which I suppose I cannot speak here.

Mr. ALLISON. What I want to know (and that certainly cannot be a secret) is, is this gentleman who is charged with corruption in office now exercising the duties of the office of collector?

Mr. VANCE. I suppose he is, pending the appointment of his successor.

Mr. SHERMAN. With the amendment I have suggested I have no objection to the resolution.

The PRESIDENT *pro tempore*. Let it be read as proposed to be amended by the Senator from Ohio.

The Acting Secretary read as follows:

Resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the condition of affairs in the sixth collection district of North Carolina, with reference to charges and complaints made against the collector of said district; with ample powers to compel the appearance of witnesses, to administer oaths, employ a stenographer and clerk, and do all other necessary things in the premises.

Mr. VANCE. I would prefer that that amendment should not specify the collector of the district, but the whole subject-matter of the collection of revenue in the district.

Mr. ALLISON. I quite agree with the Senator from North Carolina. I think the amendment he has just suggested ought to be made, so that if there are frauds in this district, and that is the reason why the cost of collection is so great, that matter ought to appear.

Mr. SHERMAN. I have no objection to that.

The PRESIDENT *pro tempore*. It will be so modified.

Mr. VANCE. Let the investigation be into the collection of the revenue in that district.

The ACTING SECRETARY. It is proposed to insert "made against the officers of internal revenue in said district."

Mr. INGALLS. Now read the whole as it is proposed to be amended.

The ACTING SECRETARY. The resolution as proposed to be amended would read:

Resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the condition of affairs in the sixth collection district of North Carolina with reference to charges and complaints made against the officers of internal revenue in said district, with ample powers to compel the appearance of witnesses, &c.

Mr. INGALLS. That will not do, Mr. President. The allegations, as I understand, are that the cost of collecting the revenue of that district is 60 per cent. more than in any other collection district in the United States.

Mr. VANCE. No, sir. The Senator will allow me to correct him.

Mr. RANSOM. Sixty per cent. of the gross amount of revenue collected.

Mr. INGALLS. Then the expenses of collecting, as alleged in the preamble, amount to 60 per cent. of the gross amount received.

Mr. VANCE. Near that.

Mr. INGALLS. And I understand further that an investigation of the facts will show that in consequence of illicit and illegal combinations of persons who are engaged in systematic attempts to defraud the revenue, who are engaged in the illicit distillation of whisky in the mountains of North Carolina, who resist the efforts of the Government to ascertain the facts and to collect the revenue, this expense is necessarily incurred. I do not say that this is the state of facts, but that these are the allegations.

Now, I do not propose, so far as my vote is concerned, to consent that the investigation shall be simply with regard to the action of this collector. I want the facts in regard to the allegations that are made as to the frauds on the revenue also the subject of inquiry, and I ask the Senator to so amend his resolution as to include that branch of the inquiry.

Mr. SHERMAN. I will put in the words "and obstruction to such collections."

Mr. VANCE. I thought I had made it clear to the Senate that I wanted the whole matter in connection with the collection of revenue

in that district inquired into, and if the resolution in its present form does not embrace the matter——

Mr. INGALLS. The resolution does not say so.

Mr. VANCE. I will readily submit to an amendment to it that shall so embrace it.

Mr. SHERMAN. I suggest to insert after the words already inserted in my motion "and to the methods of collection and the obstructions to collection." That would be sufficient, or "to the methods of collection, and obstructions to collection and frauds on the revenue."

Mr. HAWLEY. I would suggest a wording that will perhaps answer the purpose:

That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the manner in which the internal revenue has been collected in the sixth district of North Carolina, with reference to charges and complaints, together with ample power to compel the appearance of witnesses, &c.

That is what the Senator from North Carolina suggested, the manner in which the collection of internal revenue has been collected. Is not that what the Senator wants?

Mr. VANCE. The administration of the affairs of the internal-revenue office in that district, including the charges.

Mr. HAWLEY. I suggest that the matter be laid aside for five minutes, and let the resolution be put in exactly a shape to suit the two Senators from North Carolina and Ohio.

The PRESIDENT *pro tempore*. It can be passed over and taken up again.

Mr. VANCE. I am willing to agree to the suggestion of the Senator from Connecticut.

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

Mr. BLAIR. As the matter is to be passed over, I suggest to the Senator that he substitute for "the sixth collection district of North Carolina" "the States of North Carolina and Georgia," so that the whole "moonshine" business may be inquired into and the bottom facts ascertained. That would seem to open the whole subject-matter and do justice all around.

Mr. VANCE. I prefer to have a vote in reference to the affairs of the revenue department in my own State.

The PRESIDENT *pro tempore*. Does the Senator yield to the suggestion to have the resolution passed over for the present until it can be arranged in proper shape? and it can be called up at any time.

Mr. VANCE. I would prefer to have a vote on it now, but I will adopt the suggestion of the Senator from Connecticut.

Mr. McMILLAN. Let the resolution be read.

Mr. MORRILL. I will say to the Senator from North Carolina that the Senator from Ohio is just trying to put the resolution in shape as agreed to on both sides of the Chamber. If he will wait one moment it will be ready.

The PRESIDENT *pro tempore*. The Chair would suggest that if the two Senators get together they can arrange the matter without any trouble.

Mr. VANCE. Very well. Can I call it up again at any time?

The PRESIDENT *pro tempore*. At any time at all. The first bill on the Calendar will be called.

Mr. VANCE subsequently said: I now ask to call up the resolution which was under consideration a short time ago. It has been modified so as to be satisfactory.

The PRESIDENT *pro tempore*. The resolution will be read as modified.

The Acting Secretary read as follows:

Resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the administration of the collection of internal revenue in the sixth district of North Carolina with reference to charges and complaints that have been made, and including any frauds or misconduct in either collecting or resisting the collection of such revenue, with power to compel the attendance of witnesses, to administer oaths, and if necessary to employ a clerk and stenographer, and shall have power to sit during the recess of Congress if necessary.

The resolution was agreed to.

L. MADISON DAY.

The bill (S. No. 73) for the relief of L. Madison Day was announced as first in order on the Calendar.

Mr. COCKRELL. That case has been here pending for many years, and was pending in the Supreme Court and decided there some time ago; but I have not had time to look over the reports. There are half a dozen reports which have been made in both the Senate and the House. I do not want the bill to lose its place on the Calendar. I ask that it be passed over to be called up some morning next week.

The PRESIDENT *pro tempore*. It will be passed over without prejudice.

EDGAR HUSON.

The next bill on the Calendar was the bill (S. No. 596) for the relief of Edgar Huson; which was considered as in Committee of the Whole. It proposes to authorize Edgar Huson, of Ithaca, New York, to make application to the Commissioner of Patents for an extension of letters-patent granted to him February 17, 1857, reissued March 5, 1867, for improvements in gearing for wagons, extended by the Commissioner of Patents for the term of seven years from the 17th of February, 1871, as reissued September 28, 1875, for the term of seven years; and upon such application so filed the Commissioner of Patents may consider and determine the same upon the principles prescribed by the acts of Congress of July 4, 1836, and the amendments thereof, governing and granting extensions. If, after hearing the petition, upon due notice to the public, according to the practice of the Patent Office in cases of extension, the Commissioner should decide that the petition ought to be granted, he is empowered to extend the letters-patent for the term of seven years from and after the issue of the extension.

Mr. PLATT. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. HOAR on the 9th of March:

The Committee on Patents, to whom was referred the bill (S. No. 596) for the relief of Edgar Huson, have considered the same, and report:

Edgar Huson, of Ithaca, New York, a blacksmith, obtained letters-patent on the 17th of February, 1857, for an improved gearing for wagons. This is an invention of very great ingenuity, value, and importance. It consists in hanging the body of a wagon upon a platform composed of two splinter-bars connected at their rear ends to a head-block; said frame-work resting upon three springs, two of which are secured upon the axle, the third connecting the rear ends of the former two also, and in the mode of attaching the pole or thills to a draft-bar, which is secured between the splinter-bars.

The specification being defective, a new patent was issued to Huson March 5, 1867.

An extension of said patent was granted to petitioner for seven years from the 16th day of February, 1871. The specification being still defective, he was compelled to surrender his extended patent, and the same was reissued on the 28th of September, 1875.

Huson was unable to bring his invention into general use until 1870, for the reason that the art of making springs suited to his style of wagon was not understood. He used all reasonable effort to introduce his wagon without success, giving rights to territory to induce persons to aid in bringing the invention to public notice, and assigning one-half the patent for a nominal sum, in 1868, to William Halsey, who with fidelity and energy, but without success, exerted himself for its introduction. In 1870 a manufacturer of springs succeeded in making springs by machinery suited to Huson's platform wagon. The invention then for the first time came into extensive use, and about two thousand dollars were received as royalty on the patent. In 1871 a strong and extensive combination was formed to break down the patent, issuing circulars and calling for contributions to break down the patent Suits were brought against infringers, which resulted in a decree fully sustaining the patent, in the circuit court in New York, in June, 1877. In prosecuting these suits the patentee expended more than all his receipts from the patent.

It appears that, without the slightest fault, the patentee has enjoyed the benefit of his patent less than two years. The committee do not place great stress upon the fact that the original specification was defective. The invention was in advance of the time, and has only become profitable by reason of the ability of the manufacturers of wagon-springs to supply them at a cheap rate. We think it reasonable that the inventor should derive a reasonable reward from the great benefit he has conferred on the public.

Mr. Huson is a poor man, and has had a shock of paralysis which impairs his power of speech and the use of one leg. Mr. Halsey, the owner of the other half of the patent, is insane. Their rights in this patent are their only means of support, with trifling exception.

Mr. COCKRELL. The patentee having had the use of this patent since 1857, a period of twenty-four years, I am compelled to object to the present consideration of this bill.

Mr. HOAR. I wish the Senator from Missouri would withdraw his objection for a moment.

Mr. COCKRELL. Certainly I will withdraw it to hear the Senator.

Mr. HOAR. This bill was reported unanimously from the Committee on Patents in the last Congress, and passed the Senate after a statement, without, I believe, any objection from any quarter. It is a case where the invention was made a great many years ago, but it required a particular kind of wagon-spring which very few blacksmiths knew how to make, and until a proper kind of spring was discovered it did not come into general use, and the inventor has failed to receive any considerable compensation. The present owner of the patent is a person who is paralyzed. There were two owners. One of them has had a paralytic shock, and the other is a widow whose husband, I believe, was confined in an insane hospital for a long time.

The Committee on Patents thought it was an exceptional case, very plainly. It was reported by the late Senator from New York, Mr. Kernan, and it passed the committee when I think they rejected probably 90 per cent. of all such applications which were made without any considerable dissent.

I hope the Senator from Missouri will be induced to allow the Senate to express its opinion upon the bill.

Mr. McPHERSON. I wish to say that if there ever was a case in which Congress should extend a patent, it is in my opinion this case. The invention was seemingly before its time, before it could be utilized for the benefit of the inventor. It was a certain device or invention by which wagon-springs were to be constructed, but it was impossible to get the material and the kind of construction necessary to put the plans into practical use.

As is stated here, the inventor is to-day disabled. He has a family dependent upon him for support. The partner in the enterprise is insane, and the wife of Mr. Halsey and that family is also dependent upon the profits that were expected naturally to result from this patent.

Mr. COCKRELL. Will the Senator answer the question, if it is proposed that the Government shall extend a patent-right because a man happens to be poor or his wife is a subject of charity?

Mr. McPHERSON. I make no such claim; but I say it is incumbent on the Senate and on Congress to pass judgment on the bill. If the Congress of the United States refuse to grant this request, then let them know it, let them understand it. They have been before Congress two or three years. As the Senator from Massachu-

setts said, at the last Congress the Senate passed the bill and it was sent to the House, and insufficiency of time was the only reason why the House did not pass definitely upon it. Now let the Senate vote upon it, and if it is the judgment of the Senate that it is not a proper measure, reject it, and let the parties understand that they can get nothing here. I believe it to be a meritorious case.

Mr. HOAR. Will the Senator allow me before he proceeds to make a suggestion to the honorable Senator from Missouri in answer to his question? The committee did not place the slightest stress upon the fact that one of these owners was paralyzed and another the widow of an insane person, as indicating that it entitled them to any remedy which the wealthiest and most robust citizens would not be entitled to; but they did place stress upon those circumstances in dealing with the fact that during the last two years of the existence of the patent, when there was a combination of infringers to break down this patent, its owners were in this helpless condition. It is one of the facts tending to show that the patentees were in no fault in not having obtained a reasonable compensation for the invention during the life of the patent.

Mr. McPHERSON. I did not intend that the Senator from Massachusetts should occupy my time, and I hope it will not be counted against me.

The PRESIDENT *pro tempore*. It must be, under the rule.

Mr. McPHERSON. The Constitution provides that Congress shall have power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

In this case the circumstances were such that this inventor could not avail himself, within the limited time, of the benefits that would naturally flow from his patent, and I think it is eminently just and proper under all the circumstances of the case, as he has never received a dollar's benefit over and above the amount absolutely expended in contesting his right, that an extension should be allowed. I hope, therefore, the Senate will vote upon the bill and vote favorably.

Mr. PLATT. Mr. President——

The PRESIDENT *pro tempore*. The Chair would suggest that if the Senator from Missouri is going to insist on his objection——

Mr. PLATT. I rose for the purpose of appealing to the Senator from Missouri not to object to the consideration of the bill.

Mr. COCKRELL. I have already withdrawn the objection.

Mr. PLATT. It will lead to no extended discussion, and the vote may as well be taken at this time. I simply wanted to say that this bill was reported last session favorably by the then chairman of the Committee on Patents—Senator Kernan—who knew these parties and knew all about the invention and all about the circumstances, and who was thoroughly convinced that it was right and proper to extend the patent.

Mr. COCKRELL. Will the Senator please explain what this is? What class of people does it affect? Does it affect all the farmers of the great Mississippi Valley who use wagons? We want to know what class of persons it affects.

Mr. PLATT. I was about to say that I never have seen or heard before the committee of any objection to it from any quarter. It has been before Congress certainly for three years; the whole country has known about it, and so far as I recollect there has never been an objection to the extension of this patent. There certainly never has before the committee. If there has been anything it has been some letter written casually to some member of the House or Senate. I do not understand that it is anything which is to impose an onerous tax upon the public or upon wagon-makers.

With these remarks I am perfectly content to take the vote.

Mr. COCKRELL. What is the patent? I have been trying to find out from some member of the committee what this patent-right is.

Mr. HOAR. It is a double system of wagon springs.

The PRESIDENT *pro tempore*. The Senator from Massachusetts is not in order.

Mr HOAR. I do not think it is the function of the Chair to interpose such an objection if the Senator who has the floor does not see fit to do it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts rose to speak. It is the function of the Chair to stop him when he is not in order; and if the Senate expects the Chair to administer this Anthony rule it must allow him to treat all persons alike.

Mr. HOAR. Will the Senator from Connecticut yield to me to answer this question?

Mr. PLATT. I will very willingly yield to the Senator to answer, because he is much more familiar with the invention than I am.

Mr. HOAR. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Massachusetts is not in order to speak upon this question. The Senator from Connecticut cannot yield to him. That Senator has taken his seat and he cannot yield to the Senator from Massachusetts unless by unanimous consent of the Senate.

Mr. HOAR. I did not understand that the Senator had taken his seat.

Mr. COCKRELL. Do I understand that if I have the floor and am entitled to five minutes, and a question is asked me, I cannot yield to another Senator who is more familiar with the subject?

The PRESIDENT *pro tempore*. The Senator speaking yielded the floor when he sat down.

Mr. PLATT. Can I not yield the remainder of my time to the Senator from Massachusetts?

The PRESIPENT *pro tempore*. The Chair supposes a Senator can yield his time.

Mr. PLATT. My time was not out.

Mr. HOAR. Mr. President, I will have no controversy with the Chair on this point. I move to amend the bill by striking out the last word, and I desire to say that if I, in any impatience, made any disrespectful utterance to the Chair I am exceedingly sorry for it. The Chair, however, I think misunderstood me. I did not intend to take the floor; I supposed the Senator from Connecticut was still going on. I simply intended in one sentence, whether regular or irregular, to say that this is a double system of wagon-springs, a mere interpolation into the speech of the Senator from Connecticut.

If the Senator from Missouri will now give me his attention. This is a double system of wagon-springs, by which there is a cross-spring from side to side resting upon two heavy, strong, iron springs hanging from front to rear, a sort of platform on which the wagon-body is placed. It was invented a great many years ago by this blacksmith, but there were no springs which any blacksmith knew how to make which were suitable for this invention. The springs were very costly, and the patent did not get into use until about 1875.

In addition to that, there was a mistake in the patent, so that the original specifications had to be surrendered and amended and the extension had to be surrendered and amended. Then in 1875 there was quite a powerful combination to defeat this patent. The owners of it brought suit, but they did not get a judgment asserting the validity of the patent until two years before it expired, and then one of the owners was insane and the other had a paralytic stroke. Mr. Kernan, the chairman of the Committee on Patents in the last Congress, as has been said, knew all about the facts, and on his statement the Senate then unanimously passed the bill as the Committee on Patents have twice unanimously adopted it.

Mr. MORGAN. I think that I was a member of the Committee on Patents at the time this bill was first reported. There was then no dissension in committee as to the merits of the patent, or as to the fact that the patentee had been deprived by a combination from realizing from his invention anything of value at all. Litigation absorbed more money than he had earned from his invention; and, more than that, as was stated by the Senator from Massachusetts, there was then no machinery in the country for putting this invention upon the market. The inventor became a paralytic and was unable to transact his business. He came to Mr. Halsey, of New York, and sold to him a one-half interest in the invention.

Mr. Halsey was a man of very high character, who was recommended, I remember very distinctly, to me by a letter of Governor Seymour of that State as a man of excellent character. While he was industriously engaged in trying to set this patent on foot and make the invention valuable and remunerative, he was stricken on one occasion while passing on the streets of New York by two or three persons who assailed him for the purpose of robbery, and inflicted a blow on his head which deprived him of his reason, and he lingered on until a recent date, when he died.

By these accumulated misfortunes the patentee has been unable to realize anything from the patent. He deserves the sympathy of the Congress of the United States, and he deserves the generosity of the community for whom he has made a very valuable invention, and out of which he has realized nothing. It is one of those cases against which we are called upon to relieve because of misfortune, which is inflicted by the act of God and not in any sense due to the deficiency or fault of the man himself.

Mr. COCKRELL. How is it the act of God?

Mr. MORGAN. When a man is stricken on the head by a robber and becomes insane, we generally call it the act of God; it is not his own act, to say the least.

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

Mr. COCKRELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered and taken.

Mr. JACKSON, (when the name of Mr. HARRIS was called.) My colleague [Mr. HARRIS] is necessarily absent to-day.

The result was announced—yeas 43, nays 10; as follows:

YEAS—43.

Aldrich,	Davis of W. Va.,	Jonas,	Pugh,
Anthony,	Dawes,	Kellogg,	Ransom,
Bayard,	Fair,	Lapham,	Rollins,
Blair,	Garland,	McDill,	Sawyer,
Butler,	George,	McPherson,	Sherman,
Call,	Grover,	Miller of Cal.,	Slater,
Camden,	Hampton,	Mitchell,	Vance,
Cameron of Wis.,	Harrison,	Morgan,	Walker,
Chilcott,	Hill of Colorado,	Morrill,	Williams,
Conger,	Hoar,	Pendleton,	Windom.
Davis of Illinois,	Jackson,	Platt,	

NAYS—10.

Allison,	Coke,	McMillan,	Vest.
Beck,	Groome,	Maxey,	
Cockrell,	Ingalls,	Plumb,	

ABSENT—23.

Brown,	Gorman,	Jones of Florida,	Saulsbury,
Cameron of Pa.,	Hale,	Jones of Nevada,	Saunders,
Edmunds,	Harris,	Lamar,	Sewell,
Farley,	Hawley,	Logan,	Van Wyck,
Ferry,	Hill of Georgia,	Mahone,	Voorhees.
Frye,	Johnston,	Miller of N. Y.,	

So the bill was passed.

SALT SPRINGS IN CHEROKEE TERRITORY.

The bill (S. No. 1071) for the manufacture of salt in the Indian Territory was considered as in Committee of the Whole.

The preamble recites that certain salines, or salt springs, or deposits on the western plains are located on lands conveyed by patent in fee-simple to the Cherokee Nation, but are so situated as not to have been worked or made in any manner useful or productive; and that the Cherokee Legislature by enactment directed the delegation thereof to take steps to make the same produce some revenue. The bill therefore provides that the Legislative Council of the Cherokee Nation, or a duly authorized delegation thereof, may execute a lease of the salines or salt deposits on the plains, not to exceed three in number, located on the lands of the Cherokee Nation lying west of the ninety-sixth degree of longitude, in the Indian Territory, for a period of years, with right of a highway for ingress and egress and lands therewith, not to exceed for all of such locations five townships, to be reserved for such purpose and to facilitate the manufacture of salt; and the conditions of which lease shall insure the payment to the Cherokee national authorities of a royalty of not less than $1 per ton: the lease being subject to such conditions and to the proper jurisdiction of the Cherokee National Legislature, and the lease and conditions to be subject to the approval of the Secretary of the Interior. The proceeds of such royalty from the manufacture of salt are to be an addition to the educational fund of the Cherokee Nation.

The bill was reported from the Committee on Indian Affairs with an amendment, to strike out in lines 20 and 21 the words "not to be alienated, but remain the permanent property of the Cherokee Nation" and insert "continue subject to any rights of the United States under sections 15 and 16 of the treaty of July 19, 1866, with the Cherokee Indians;" so as to make the proviso read:

And provided further, That said salines shall continue subject to any rights of the United States under sections 15 and 16 of the treaty of July 19, 1866, with the Cherokee Indians; and said lease or leases shall be liable to revocation by the Legislative Council of the Cherokee Nation and the Secretary of the Interior for the non-performance of any of said conditions.

Mr. ALLISON. Let the report be read, that we may see what this bill means.

The PRESIDENT *pro tempore*. There is no report with the bill.

Mr. BECK. Is there no limit to the time of the lease?

Mr. INGALLS. It is subject to the approval of the Secretary of the Interior by the terms of the bill.

Mr. CONGER. I ask whether this bill provides for citizens of the United States taking possession of this Territory and working the salt springs?

Mr. INGALLS. It does not.

Mr. CONGER. Who then? Who is permitted to occupy these salt springs?

Mr. INGALLS. It authorizes the Legislative Council of the Cherokee Nation to execute leases for the manufacture and exportation of this salt.

Mr. CONGER. Persons outside of the Territory, or Indians? Who are to operate the salt springs? Does it provide for whites going in there and occupying this Territory and carrying on this manufacture?

Mr. INGALLS. I do not know what action the National Council of the Cherokees will take. The salt lies south of the southern boundary of the State of Kansas in vast superficial deposits, almost chemically pure, that are now inaccessible in consequence of the non-intercourse act that regulates immigration into and settlement in the Indian country. It is exceedingly important to the rapidly developing packing and other cattle interests that are growing up in that section of the country that some method should be adopted by which these deposits can be utilized; and inasmuch as under existing treaties the consent of the Government is assumed to be necessary to any action the Cherokee Nation might take, this bill is introduced and reported by the committee.

Mr. CONGER. Then I understand the Senator does not know whether it is intended to make an opening for the settlement around these great manufactures of salt of white men who are now prohibited from coming into the Territory, thus opening the way for whites to go into the Indian Territory.

Mr. INGALLS. It is intended to permit the authorities of the Cherokee Nation to execute leases, subject to the approval of the Secretary of the Interior, for the manufacture and exportation of this salt. There is no intention of opening the country to settlement nor promoting colonies of white citizens around these saline deposits. If the arrangement made does not in the opinion of the Secretary of the Interior sufficiently guard the treaty rights of the Indians, it will not be approved, and if at any time there is any invasion of those rights by those who may be there the lease can be abrogated.

Mr. CONGER. Almost every bill that is introduced here reaches out in some way to get possession of Indian territory and to make an opening for the occupancy of Indian lands by the whites, sometimes for agricultural purposes, and, if that fails, it is to cut timber upon lands, sometimes where there is no timber. Now I see it is to work salt springs. There should be some rule adopted in regard to the Indian Territory. It should be understood some time that the Indians are to have their territory with whatever it contains for their own use, or else let us abrogate all laws on that subject.

The principal Indian bills that have been before the Senate since I have had the honor to become a member of it have been apparently to get from the Indians the desirable portion of their territory in one place or in another. There is no report accompanying this bill; nothing to indicate who are to have the right to go into the Indian Territory contrary to the present law, nor to what extent they may go or what violation of the spirit of the treaties and of the laws this may bring about. I for one should desire to have some reference to what laws are changed; what new rights are given to white men by which they can procure from Indians leases of their lands for this purpose or any other purpose, or else let the Senate admit at once that all Indians' lands are open to settlement by the whites whenever there can be a plausible excuse made for the passage of such a bill.

Mr. VEST. Mr. President, this bill is an attempt to secure from the Congress of the United States a recognition of a title in fee-simple to these lands in the Cherokee Indians in express violation of the terms of the patent issued to them and of the treaty under which the patent was issued. It has not been a week since that question was thoroughly investigated and the truth of the statement that I make established beyond any question in this Chamber; and yet this bill is now brought here from the Committee on Indian Affairs with the assertion in the preamble that—

Certain salines, or salt springs, or deposits on the western plains are located on lands conveyed by patent in fee-simple to the Cherokee Nation.

That is absolutely and unreservedly incorrect. I read the other day the patent and I read the treaty, both of which expressly state that these Indians own these lands not in fee-simple, but so long as they preserve their tribal autonomy, and so long as they occupy the lands; yet session after session it is attempted here in all sorts of ways and by all sorts of measures to make this Congress and this Government commit itself to an assertion which is absolutely false. I protest against it. I shall move therefore to strike out in the preamble the words "on lands conveyed by patent in fee-simple to the Cherokee Nation."

Mr. INGALLS. I think the entire preamble might be omitted.

Mr. VEST. Well, I move to strike it all out.

The PRESIDENT *pro tempore*. That motion is not yet in order.

Mr. VEST. Now, another word about this bill, which I see here to-day for the first time. If it is proposed, as the Senator from Michigan says, that this Government should continue its relation of guardian to ward in reference to the Indian tribes or nations, then this Government should do its full duty as a guardian, and if we propose to oversee and to inspect the contracts under the Indian intercourse laws which are made by the councils of these respective nations and to retain in ourselves this authority, we should do our duty if the duty devolves upon us.

Now, what does this bill authorize? It authorizes these Indians to make a lease of these salt springs for ninety-nine thousand years if they see proper. It authorizes them, if white men can go there and induce them by any sort of means to do so, to convey this land away for an unlimited number of years, and this bill says in so many words—for it amounts to that—that the Indian council can convey this land away forever to any corporation or to any set of white men who go there and offer sufficient inducement to them to make that contract. If we propose to act as guardians no such authority should be given to that council. The lease should be for a limited term of years, and should be for a reasonable time; but I care not so much about that, because I for one do not consider myself a guardian for these Indian tribes in any sense at all. If they are, as their friends claim them to be, independent sovereignties, let them have all the rights of a sovereignty; let them convey their lands; let them assume—and I say that is the solution of this whole question—all the responsibilities and all the duties of American citizenship. Till Congress does that we shall have these questions recurring before us.

What I rose principally to say, however, was to object to this preamble, and to move to strike it out.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the Committee on Indian Affairs.

The amendment was agreed to.

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

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

Mr. CONGER. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Missouri [Mr. VEST] that after the vote is taken on the passage of the bill the question will be on the preamble, if the bill be passed.

Mr. VEST. I see no great objection to the bill now. If the friends of the measure will limit the lease, make it a reasonable term of

years, many of us on this side of the Chamber will vote for the bill. If it is left in the present condition, for an unlimited term of years, of course I shall vote against it. I feel no especial concern in it, but I make that suggestion.

Mr. INGALLS. It appears to me that lines 16 and 17 would meet and probably obviate the objection that the Senator from Missouri holds, and that to a certain extent I share with him.

Mr. VEST. Will the Senator read the lines?

Mr. INGALLS. "And said lease and conditions subject to the approval of the Secretary of the Interior." Of course it is to be assumed that where the Indians and the Government are both represented such stipulations will be made as will not interfere with what are supposed to be the respective rights of the parties under the treaty and under any view that might be had of the title by which this land is held. In fact I know but little about this matter, and certainly have no great desire one way or the other, but if the Senator from Missouri desires that a limitation shall be placed in the bill, and he is especially strenuous about it, I should not object to that, although I do not think it is necessary.

Mr. VEST. I am not particular about it.

The PRESIDENT *pro tempore*. The question is, shall the bill pass?

Mr. ALLISON. I ask the Senator from Kansas to insert in line 8 "for a period not exceeding ten years."

Mr. INGALLS. That period is probably too brief. It might be necessary in carrying out these plans for the manufacture and exportation of salt, to construct works that would be more or less permanent, and might require the investment of capital. I should suppose that if a period of limitation were to be prescribed, that which is demanded by the friends of the Chinese restriction would not be unreasonable, say twenty years.

Mr. BECK. Why not make it twenty or twenty-five years?

Mr. ALLISON. Here is a provision which practically——

Mr. MAXEY. I suggest to the Senator from Iowa to insert in line 8, before the word "years," "not exceeding twenty," so as to read, "for a period of not exceeding twenty years."

Mr. ALLISON. I think there should be a limitation on this grant.

Mr. MAXEY. There undoubtedly ought to be a limitation.

Mr. ALLISON. Here is a grant of five townships of land. The Cherokees are entitled to this land except as provided in sections 15 and 16 of this treaty, which provide that other friendly Indians may be placed there.

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate that the vote ordering the bill to a third reading be reconsidered?

Mr. INGALLS. Let the amendment be inserted by unanimous consent.

The PRESIDENT *pro tempore*. The Chair hears no objection to the reconsideration. The vote is reconsidered, and the bill is open to amendment. The Senator from Texas [Mr. MAXEY] moves to amend the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. BAYARD. Mr. President, this is proposed legislation upon the basis of treaty stipulations with the Indians, is it not? Then I would suggest to the Senate that while it may be very preferable to put a limitation upon this power of leasing, it should not transgress the boundary of reasonableness as lately interpreted by another branch of the Government, and twenty years may be considered unreasonable.

Mr. INGALLS. Will the Senator permit me to interpolate an observation?

Mr. BAYARD. That was considered unreasonable in the exercise of an express power under a treaty permitting us to limit or suspend the immigration of Chinese into this country. I think therefore probably you had better make the time ten years.

Mr. MAXEY. I suggest to the Senator from Delaware that I was in favor of twenty years for Chinamen; I thought it reasonable, and I think twenty years is reasonable here.

Mr. BAYARD. I was in favor of twenty years there, and a longer period if we could make it.

Mr. INGALLS. The difference is, that in this case we ask the consent of the Indians to the proposed limitation of twenty years; in the other case you proposed to make it without the consent of the Chinese.

Mr. BAYARD. But in the other case we had the conceded right to fix the term at our own pleasure.

Mr. INGALLS. Making it reasonable.

Mr. BAYARD. And in this case we have not. In the one case we were within the very spirit and meaning, as well as letter, of the treaty stipulation when we put it at twenty years, and in this case we simply take the matter in our own hands. We are dealing with a weak and a friendless people, and I think they are entitled to the consideration of great limitation upon acts of power by the General Government. I shall vote for the twenty years, but I should prefer ten.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Texas to the amendment of the Senator from Iowa.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. MAXEY. I move, in line 3, to strike out "or a duly authorized delegation thereof." I have not any great faith in some of these delegations, but if a lease is made by the Cherokee council then it is subject to revision by that council, whereas from the wording here if the lease is made by an authorized delegation the delegation can make it and the council will be bound by it without ever having had the privilege of seeing it. Therefore I say let the council itself make the lease.

Mr. INGALLS. I have no objection to that amendment.

Mr. MAXEY. I move that amendment, to strike out these words:

Or a duly authorized delegation thereof.

The amendment was agreed to.

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

Mr. CONGER. Since the amendments have been adopted I do not ask for the yeas and nays on the passage of the bill.

The bill was passed.

The PRESIDENT *pro tempore*. The question now is on the adoption of the preamble.

The preamble was rejected.

UMATILLA RESERVATION.

The bill (S. No. 1434) providing for allotment of lands in severalty to the Indians residing upon the Umatilla reservation, in the State of Oregon, and granting patents therefor, and for other purposes, was considered as in Committee of the Whole.

Mr. CONGER. Let the report be read.

Mr. HOAR. If the reading of the report is commenced it will carry the bill over, as it cannot be finished by two o'clock. Would it not be better to consider that two o'clock has come now?

The PRESIDENT *pro tempore*. The Chair thinks the suggestion of the Senator from Massachusetts a very good one. If there be no objection, the Chair thinks the bill had better go over to Monday, and two o'clock be considered as having now arrived.

Mr. SLATER. I shall not object to that.

Mr. CONGER. I have no objection to that arrangement.

The PRESIDENT *pro tempore*. The unfinished business is Senate bill No. 1572, on which the Senator from New Jersey [Mr. MCPHERSON] is entitled to the floor.

OBSTRUCTIONS TO NAVIGATION.

Mr. SAWYER. I ask unanimous consent to call up a bill, if the Senator from New Jersey will give way——

Mr. MCPHERSON. How long will it take?

Mr. SAWYER. But a very few minutes. It is a bill to which there will be no objection, I think. It is in regard to bridges on the Mississippi River mainly, to enable the Secretary of War to make proper regulations as to draws. It is important to have it acted on promptly. It is Senate bill No. 1392.

No objection being made, the bill (S. No. 1392) to provide for the removal of obstructions to the free navigation of the navigable waters of the United States was read.

Mr. ALLISON. Is this bill now up in regular order?

The PRESIDENT *pro tempore*. Yes, sir; no objection was made. Unanimous consent was given to take it up. The Senator from New Jersey who had the floor at two o'clock on the unfinished business yielded to the request of the Senator from Wisconsin that this bill be taken up, and unanimous consent was given.

Mr. MCMILLAN. If the Senator from Iowa will permit me, I will state that this bill has been submitted to the War Department, and the Chief of Engineers has thoroughly examined it. They have insisted upon provisions of this kind being introduced into bridge bills, and recommend the passage of a general bill of this kind. It is merely authorizing the Secretary of War to require the owners of bridges over the navigable streams of the United States to construct sheer-booms where boats and rafts are passing under the bridge, so that accidents may not happen by vessels or rafts striking against the piers. That is the whole provision of the bill. It is one that is required by the interest of navigation, the steamboat and rafting interest of every stream in the country. The War Department have insisted upon it time and again; the Committee on Commerce have considered it, and reported this bill favorably.

Mr. SAWYER. So far as I know, all the bridge owners and the railroad companies desire it because they want to know when they put a guide at a draw that it is there legally and that if they put it there they will not be liable for damages.

Mr. MCMILLAN. And I was informed by the Senator from Missouri that the other day a very serious accident occurred on the Missouri River by which great loss of property ensued in the destruction of a large steamboat on that river. Our rivers in the West all require this protection as they do elsewhere.

Mr. ALLISON. I do not see that this bill has been reported from any committee.

Mr. MCMILLAN. Yes, sir; it is reported from the Committee on Commerce.

Mr. ALLISON. Is there any special reason why it should pass to-day? My attention has just been called to it. I think it is a very important question, affecting a great many interests. I do not wish to impede its passage, but I would like to look it over.

Mr. MCMILLAN. I will inform the Senator from Iowa that there is a special report from the engineer in charge of the Upper Mississippi River printed and laid upon the tables of Senators during the present session.

Mr. ALLISON. I ask Senators to allow the bill to go over for the present. I do not know that I have the slightest objection to it, but I should like to look into it.

Mr. MCMILLAN. It was taken up on motion of the Senator from Wisconsin.

Mr. SAWYER. I will not press the bill now if the Senator from Iowa desires to have it go over. I will withdraw the request for its consideration now.

Mr. MCMILLAN. Let it be understood that it will be taken up at some time within a short period.

Mr. SAWYER. Let the Senator from Iowa have time to examine it, and I shall move to take it up to-morrow or Monday morning.

The PRESIDENT *pro tempore*. The bill will be regarded as postponed.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia; and

A bill (H. R. No. 5541) to extend to sailing-vessels the same privileges in unlading cargo as are now granted to steamships.

The message also announced that the House had passed the bill (S. No. 632) granting a pension to John Taylor.

PRINTING OF A DOCUMENT.

Mr. MORRILL. I ask leave for the Committee on Finance to have printed, when it shall arrive, as I do not expect it will arrive until perhaps late in the evening or to-morrow morning, a communication from the Secretary of the Treasury in relation to bonded spirits.

The PRESIDENT *pro tempore*. If there be no objection, the order will be made.

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 this day approved and signed the act (S. No. 1601) authorizing the Public Printer to pay A. Hoen & Co., of Baltimore, Maryland, for the lithocaustic illustrations made by them.

CHINESE IMMIGRATION.

The PRESIDENT *pro tempore*. The Senator from New Jersey [Mr. MCPHERSON] is entitled to the floor on the unfinished business.

Mr. MILLER, of California. I ask the Senator from New Jersey to yield to me for a moment. On consultation with a great many Senators in respect to the time when the Chinese bill should be taken up it is thought that the best time will be on next Tuesday, it being supposed that the Mississippi River bill will be disposed of on Monday.

Mr. KELLOGG. Perhaps to-day.

Mr. MILLER, of California. If it is disposed of to-day we shall call up the Chinese bill on Monday. I desire to have an understanding, if possible, with the Senate that the Chinese bill will be taken up on Monday if the Mississippi River bill is disposed of to-day, and if not, on Tuesday, at any rate, whether the Mississippi River bill be disposed of or not.

The PRESIDENT *pro tempore*. The Chair will inform the Senator that there cannot be an understanding about it because notices have been given as to various bills. There may be a struggle. It will depend upon the sense of the Senate at the time. The Senator can give notice that he will ask on Tuesday to have his bill considered.

Mr. MILLER, of California. I give that notice, then.

Mr. FARLEY. I am satisfied that the Mississippi River bill will be disposed of either to-day or on Monday, and on Tuesday the importance of immediate action on the Chinese bill will address itself to every Senator on this floor, and I do not think it will occupy more than one day. It is important not only to our own coast but to the entire country that we dispose of the matter in one way or the other. I hope it will be understood that on Tuesday next, after the morning hour, we shall proceed to take up the Chinese bill.

The PRESIDENT *pro tempore*. At two o'clock the Senator means.

Mr. FARLEY. Yes, sir; at two o'clock.

MISSISSIPPI AND MISSOURI RIVERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

Mr. MCPHERSON. Mr. President, I am not in the habit of using much of the time of the Senate in the discussion of questions coming before it, and upon this question, important as it is, I will not depart from my usual custom. I shall present very briefly a few general propositions, and will not follow the line of argument in respect of the comparative merits of different systems of improvement marked out by those who preceded me in this discussion.

Let me say, however, with due respect to those who defend the jetty system and ignore the other, or levee system, or *vice versa*, that the discussion with the light we now have as to future requirements seems to be premature, and it is more properly a subject of experiment and demonstration rather than of argument.

If I understand the Senator from Indiana and the report of the commission, the jetty system is an interior line of solid filling restricting the channel in width and trusting to the increased confined volume of water to wear the channel deeper, and thus relatively raise the banks. Now, that is a simple, plain proposition, as I understand it, if it raises the banks sufficiently, or, what is the same thing, lowers the channel to prevent overflow; but if a given volume and force of current will give a certain result, why dissipate any of the power by which that desired result may be most expeditiously and certainly reached. If to utilize the whole power of the river levees become necessary as an adjunct to the jetties, why limit your appropriation to jetties and thus virtually obstruct the very object we have in view.

I do not know that the jetty system alone will give us good navigation on the river, but taken conjointly with a system of levees we are enabled to utilize all the forces with which nature has supplied us, and failing then we fail absolutely. If the jetty plan will so deepen the channel and relatively raise the banks as to prevent overflow, then we need no levees; but that is still a matter of experiment. The only safe plan is to give the largest liberty in the expenditure of this appropriation until all these facts have been demonstrated.

Mr. President, I shall vote for this appropriation; and as long as I have a vote in this Senate it will be given for further appropriations until the sum appropriated shall equal the sum needed to make this magnificent water-way what God and nature intended it should be—the great artery of commerce.

The valley of the Mississippi is the most magnificent dwelling place prepared by God for man's abode. As we survey the river in its course and comprehend its magnitude from its northern sources to its sourthern outlet, as it makes its way through every variety of climate and every order of production suited to the wants and the enjoyments of mankind, we cannot fail to recognize that our whole country is interested in the progress and welfare of those who do and of those who are to occupy its fertile fields, grow into wealth in its cities, into opulence and affluence by its commerce and its products.

The question of the improvement of the Mississippi has long attracted public attention; public necessities and the public welfare now demand it. It has ceased to be a local question; it is no longer hampered by any of the narrow influences which pertain to local expenditure for local advantages. It has become and is an interstate improvement for interstate transportation, interstate commerce, and national welfare. It is a national question. The Mississippi stops at no State lines, it is measured by no State boundaries, but flows from clime to clime, almost from zone to zone, from the northern extreme of our domains to their southern limit in the Gulf of Mexico. It is sovereign beyond the sovereignty of States, and the question of its improvement is as broad as the territory it drains and as universal as the blessings the wealth of its valley confers.

Whatever plan for this great work may be adopted must be national. No State can undertake it; no State should undertake it. It is not the work of the States through which it runs. They are interested in it, but it is not their property; they have but a divided semblance of sovereignty over it. The Mississippi belongs to the nation; it is the highway of all the States; it was purchased with the common treasure of all; it is the inheritance of all; its channel unites and drains an empire of States to form a common water-course to the ocean; it combines into unity all varieties of climate to bring into exchange all varieties of products. In this unity of interests it is at all times an arbiter for continental supremacy, a mediator for harmonies of purpose, and a never-failing advocate for federal union, linking into one chain of communication nearly half our population, gathering into one current a continent of rivers, and bearing into one outlet thousands of miles of navigable waters capable of transporting the products of the soil, the forests, the mines, and of all the industries of man to their ocean markets. If the work of its improvement is not national, nothing can be national; if it is not of national importance, nothing is of national importance. It is altogether too big to be left in the custody or care of any State. The States are weak and unfit for the work. Nor can they act together. And the work to be done needs for effectiveness and economy one head, one plan, one hand, and perpetual control. If it is done at all, the United States must do it.

Daniel Webster, as early as 1846, when the question of improving its channel was discussed, pronounced in favor of the broadest improvement. He said: "This noble and extraordinary stream, with seven or eight millions of people on its banks and on the banks of the waters falling into it, demands the removal of all obstacles which obstruct its navigation." Fervent with the importance of the question, he demanded to know: "Who shall do this work? Will any one of the States do it? Will all of the States on its banks do it? We know they will not; it is not the duty of any one State or of all the States on its banks to do it; but it is the duty of all the States—their constitutional duty. The improvements must come from the Government of the United States, or they will not come at all. Why, sir," he exclaimed, "what a world is there; what rivers lead into it; what cities are on its borders—Cincinnati, Saint Louis, Natchez, New Orleans, and others that spring up while we are talking of them."

These words were spoken in our own days, and yet the 8,000,000 of people have increased to 23,000,000, and we have but to look upon

the maps of to-day, into the census of our cities and towns, into the tables of our exports, and the regions from which they come, to find that while the Congress of the United States has been debating the extent of the aid which should be doled out to promote this needed improvement, in the very words of Mr. Webster, while we have been talking of them, cities like Minneapolis, Omaha, Dubuque, Des Moines, Davenport, Quincy, Alton, Cairo, and many others have become great centers of trade, and States almost as numerous—with 40,000 miles of railroads and 15,000,000 of people—have been added to this ever-increasing valley.

Since these words were spoken, and fitly spoken, by the immortal Webster, desolating floods have been permitted to overflow this vast and fertile region, destroying each time more than the entire cost of the improvement. It is estimated that the flood which is now subsiding will probably cause a loss of 300,000 bales of cotton in this year's crop. At present prices this would be a loss of more than $18,000,000, besides the homes, products, horses, cattle, everything living, everything dear, all that industry has accumulated, all that care and years have refined into comfort, all of wealth, and almost all of hope ingulfed in the hundreds of miles of uncurbed waters.

The improvement of the Mississippi is demanded by every consideration of national economy which can address an intelligent and progressive people. It directly affects the value and productiveness of the public domain. So long as its waters are permitted to flood and overflow the immense region now submerged, so long as the property, products, and lives of the people who venture into its fruitful valleys are endangered, it never can be and never will be a safe and desirable abode for man.

The value of all lands depends upon two or three normal elements. Safety of life, safety of property, and safety of production are absolute essentials to value. Not an acre of the most fruitful lands in the immediate range of its waters are now safe. Continuous occupancy is impossible. General cultivation cannot exist. The extent of the overflow is the only means of measuring the extent of the region to be reclaimed and brought into cultivation. It stretches for hundreds of miles upon its banks. It covers the richest cotton and sugar lands upon the continent. It embraces a section of country the most fruitful in animal wealth, and the most extensive in its limits to be found on the globe. Every acre added to the producing capacities of the lands of the United States, especially every acre located on the highways of commerce, is a continuing element of natural wealth. It is enough to say that the improvements contemplated, if carried out on a scale equal to the importance of the subject and within the power and means of the Government, will reclaim and bring into cultivation an extent of territory whose annual product above the cost of production would be sufficient to extinguish the entire cost of the improvements.

The whole question if it could be reduced to the pure mathematics of profit and loss would leave no room for debate. It would show that the loss must be certain and continual and often as by the present floods overwhelming, so long as the improvements are unmade. It would show that the profit would be certain, increasing, and munificent as compared with the outlay required.

Senators, it might be asked—it is asked—if all this might of calamity, loss of property, loss of life is not directly attributed to the failure of the Government of the United States to establish bounds beyond which these flood deluges shall not pass. With an overflowing treasury from which to draw the means, longer neglect seems to approach criminality.

Let us then elevate our statesmanship to the level of the importance of the great work. Let us make the comprehension of our duty as broad as the country, as elevated as its destiny, and as positive as the necessities which demand our action. There never devolved on any Congress a higher or more imperative trust in removing formative, physical, and positive obstructions to navigation, to production, to commerce, to demanded progress and to the general welfare of the people than is forced upon us in considering and providing for the improvements on the Mississippi. As legislators we shall fall short of the duty our position imposes if we evade or postpone the removal of every obstruction it is in our power to cause to be removed to the free and unobstructed navigation of the Mississippi and to the peaceful and undisturbed cultivation of its borders.

But I am asked, have we the constitutional power to apply the revenue derived from taxation to reclaim the overflowed lands? My answer is simple and easy. Incidental protection is a very popular phrase in this country, and scares nobody. Make, then, your improvements within the scope of constitutional power contended for by the most strict constructionist, and we will accept without controversy the incidental protection which such an improvement will give to property upon its banks. Limit, if you please, your constitutional power to its military, postal, and commercial necessities, and we will rest our cause on these alone.

The world is beginning to be educated to comprehend the declaration of Napoleon, in 1803, when he said that whoever commanded the navigation of the Mississippi and controlled its valley would become the most powerful nation on the globe.

As a purely military necessity, the free navigation of the Mississippi is an essential beyond any estimate of the costs it would occasion. The importance of its waters during the rebellion is an ample illustration of the necessity of making every navigable portion of the river accessible and available. The difficulties and obstructions in its channel cost the United States more from 1862 to 1865 for military purposes than the whole sum required to improve it. No war can exist in which the Mississippi will not play an important part. It is a continental element of our strength. It is an artery of life-blood to invigorate our land. Everything which intercepts its current or dissipates its force is an impediment to the vigor of our power and to its military importance as the highway of our armies, of our supplies, and of our munitions of war.

POSTAL NECESSITY.

In peace, as in war, the postal service of the United States is one of the necessities we can never abandon and never overestimate as an element of civilization. The improvements on the Mississippi would not only greatly facilitate it but they would protect from injury and destruction the common roads and railroads upon which that service is conducted to and from the river banks and throughout the regions subject to overflow. Entertaining these views in respect of its military and postal advantages, without the power of producing definite estimates based upon established facts to prove the positive accuracy of the conclusions I have reached, I now proceed to examine the question of improvement as it bears upon the question of

COMMERCE AND TRANSPORTATION.

All improvements to be made by the Government of the United States on the Mississippi to be of permanent value must be made with reference to a general plan and to the general utility of that plan. The demand for transportation is as general as the production of the great valley it drains. The great bulk of it must always be interstate or, to coin a phrase, national commerce. That is to say, it must come from points remote from the immediate banks of the river where improvements are most essential—Minnesota, Iowa, Kansas, Missouri, Nebraska, Illinois, Ohio. All the States on its border and all the States united by determinal water-courses to its channel, and all sections connected with it by internal railways and tributary to it and directly interested in its facilities are in the price established upon it for transportation. Hundreds of navigable branches pour their floods of traffic into its channel for market and thousands of miles of steamboat navigation are dependent for their success upon the condition, depth, and freedom from obstruction of its channel.

It cannot be said that it now transports all or a major part of the products of its valleys to the seaboard, but it can with truth be declared that the main reason why they are forced into other and vastly more expensive routes is because it is not improved to perform its legitimate functions, and the want of this improvement costs the people and sections not on its immediate banks more yearly in exorbitant charges for freight than the whole outlay to make its waters permanently available either as a direct route of transportation or as the direct medium of fixing the competitive cost of transportation. Thirteen great interstate railroad lines bridge the waters of the Mississippi and its tributaries, and each of these thirteen carry more products over its waters than its channel bears to its outlets; while its capacity to transport, if improved, is vastly beyond the combined power of all of them, and the difference in cost between floating the products on the river, with a secured and uninterrupted channel, and on rails, is so enormous that it is no longer difficult to estimate the magnitude and certainty of the loss to the people.

During the spring and high-water navigation the railroads are forced to bring their prices to the proximate rates of river charges, but the uncertainty of the duration of high water, the always present certainty of obstructions, prevent the accumulation of facilities for shipment which would never fail if the river were improved into reliable and certain means of transportation. The charge for freights are therefore made to fluctuate exactly as the channel fluctuates. The railroads take advantage of every obstruction to increase from double to ten times the rates which a uniform current and a certain depth of water would establish into uniformity. At the same time the river rates are by reason of this very uncertainty made vastly more than they would be if certainty of channel and depth existed so as to permit certainty of estimate of the demand and cost of transportation.

This question of transportation is to-day paramount over all others connected with subsistence, and subsistence is not only life itself but it is the sum and substance of our foreign trade.

The great grain, cotton, produce, cattle-growing, and wool-producing region of the United States lies in the valley of the Mississippi and its tributaries. Seventy-five per cent. of the whole value of our exports come from its fields, and depend for their value where they are produced upon the cost of transporting them to market. With a soil inexhaustible in fertility, and with modern appliances to aid production, its cost has been reduced to the minimum. With cheap transportation to reach the foreign consumer the demand for our surplus product abroad will be practically without limit. The whole excess above the legitimate cost, and this excess is often oppressive, depends upon the condition of the water transportation upon the Mississippi. In short, the facilities of transport on the Mississippi determine the price of transport on every other route to the Atlantic seaboard. The difference, therefore, between possibilities of transportation on the Mississippi when improved, and present rail transportation to the Atlantic seaboard, which scarcely admits of much

reduction, is the sum of the importance of improving the Mississippi as a mere question of transportation.

Now, what is the difference? The actual cost of transporting grain on long lines of road, with low grades representing the minimum of cost in moving, is said by the highest authorities to be not less than one-half a cent per ton per mile, and to do it for less will require a reduction in the price of coal, iron, and labor—contingencies not likely to happen. Counting Saint Louis to be 1,200 miles from the Atlantic seaboard, at the above rates the cost per bushel of grain by rail will be eighteen cents. This sum represents the actual cost, (and is therefore the most liberal presentation which can be made in favor of rail transportation,) but it does not by any means represent the actual charge the product is required through absence of cheaper competition to pay. This is of necessity left to the rapacity of railroad pools, and may be as extortionate as they please to make it.

The most competent authorities agree that the cost of transporting under such favorable conditions as the improved Mississippi will furnish that same bushel of grain from Saint Louis to tide-water at New Orleans may be represented by a fraction of a penny. In other words, the possibilities of one route compared with the best effort of the other are as one to eighteen.

Confronted by these facts—for myself at least—to longer doubt the propriety of throwing the millions (or so much thereof as may be at present employed) of surplus revenue into the Mississippi is to doubt my power to reason.

The great State of New York has given us an example worthy to be followed. Its wisdom and foresight gave to the country a great water-way from the lakes to the ocean. The liberality of its people rescued the territory from the ocean to the Mississippi from the extortions of corporate greed. It has recently made its great canal —that first great apostle of liberty and enterprise—free from the lakes to the sea.

If the wisdom of its founders is to be measured by its beneficent results, they were wiser than anybody, and the later wisdom in making the canal free of tolls has removed the last shackle upon its commerce. It is—it can be viewed in no other light—a gratuity to the nation.

The commission of engineers appointed by the Government have determined that the improvement for commercial purposes is feasible and the cost thereof not unreasonable. To make it navigable for commerce is to make overflow well-nigh impossible. It is estimated the cost of this great work will not exceed the amount appropriated and practically squandered in the past five years in reforming trout streams, and this amount we should not hesitate for one moment about appropriating as it may be needed for so magnificent a purpose, for an improvement so essential to commerce, to trade, to production, to the preservation of life, property, and the rescuing from annual devastating floods a vast area of land of wonderful fertility, capable of supporting millions of inhabitants and of largely increasing the national wealth.

It is high time the Government looked to the improvement of its own property, especially when followed by the results I have stated. In a few years Congress has given to individuals and corporations more than one hundred millions of money or credit and an area of territory greater than the combined area of ten of the States in this Union. It is estimated that 70 per cent. of this princely gift is held and owned to-day by citizens of other nations.

One-tenth of the present value of that gift would wall the Mississippi with granite from its source to its mouth, secure to it the entire commerce of the great water-shed which supplies it, which commerce, at the present ratio of increase in production, will soon save to the producer an amount greater than the sum now paid annually for transporting our entire exports to Europe from the seaboard. This improvement will so cheapen transportation that the great grain fields west of the Mississippi will determine the cost of living in Europe. California and Minnesota, even at present high freights, now regulate the rates of rental paid by the grain producers of Great Britain, and fix the prices at which they may sell their products. Under like freights the cattle from Texas and Illinois compete with the English herdsmen in every important city in England. In proportion as the supply is increased and cost lessened the demand has increased.

The introduction of American beef into English markets made consumers of people who had never before been able to purchase it. Cheap transportation, coupled with cheap production which we have, means cheap food. Give us cheap transportation to reach the consumer, wherever that may be, and the question of surplus food production, both question and food, is forever disposed of.

Senators, as legislators we may not be obliged to assume the recommendations of the commission as binding upon us. And they are not; but in so far as they come commended to us as the carefully considered result of scientific and practical experiment, recommended to us after years of investigation, consultation, and comparison of experiences, from men whose duty it has been to investigate, and whose glory it has been to win and deserve public confidence, and that, too, upon principles of every-day application, with which we are all familiar, and in which we must all concur, there can be, as I conceive, no variance of opinion.

I am opposed to all half-way measures. I am in favor of the broadest, most liberal, and most effectual measures to consummate any system adequate to meet the end in view. The nation has selected its commission to investigate and to report. They have investigated and reported. I accept their report, for I am satisfied that the plan proposed will bring the waters of the Mississippi into subjection to the demands of commerce, its banks into barriers against destructive floods, its channel into depth for safe and continuous navigation, its border lands into safe and productive fruitfulness, and fructify with advantages to the millions of our people in saving them from the extortions of monopolists in supplying the cheapest transportation it is ever possible to attain.

Let us then so far forget the conflicts of partisan ambition, so far pause in the zeal of political strife as to bring ourselves up to the conception of the magnitude and importance of the duty this subject imposes upon us. Doing this, we shall accomplish a work worthy of our age and our country. Never did there devolve on statesmen the consideration of a physical improvement so vast in its far-reaching and so important in its immediate results as that embraced in the means of making the waters of the Mississippi, as they flow to the sea, minister to the welfare of the people, to the safety, productiveness, and riches of the valley it drains, and to the commerce of the continent. It is a question which addresses itself to all of us; it should invite us all for the common welfare of all. No monarchical throne or combined aristocracy of power presses these States into unity. No military chain of fortresses encircles the people, but united in a government founded in equality of rights, representative in character, and whose highest purpose is to secure the largest degree of benefit to all, we as legislators will fall short of the duty our position imposes upon us if we fail to comprehend the importance of a great common bond of union, without which the Union would be powerless. The Mississippi unites the continent. It blesses it. It must be improved.

Mr. HARRISON. Mr. President, I hope I shall not overtax the patience of the Senate if I ask leave at the present time to submit some remarks on the pending measure.

Reference has been made in the debate to the fact that for a period of about three years I was a member of the Mississippi River commission. I did not allude to that fact myself, because I did not at all conceive that such a relation to the work of the commission had given me any such special information, not contained in the published reports of the commission, as to entitle what I should say here to undue weight. I did perhaps have this advantage, that I heard in the commission the discussions of the engineers upon the first report and upon the second report which was submitted by that body to the Secretary of War, and through the War Department transmitted to the Senate. I had then the advantage simply of some preliminary knowledge, which was afterward accessible to every Senator here who would take the time to examine the published reports of the commission.

In the Senate in what I have said in my previous remarks I have simply taken the same view which, as a member of that commission, I took after listening to the fullest discussion of the able engineers and experts who constitute the body of the commission. I did not suppose that any one could be so unfair as to suppose from anything said in my previous remarks, or from anything done by me as a member of the commission, that I had either then or now brought to the consideration of this question any spirit of sectionalism or partisanship. I am glad to be able to know, as I do know, that there was but a single Senator on the other side of this Chamber among all the distinguished gentlemen immediately representing this afflicted section who found himself willing to put such a construction upon anything I had said or done.

If I know my own mind, I have not now, and have not had, as I expressed myself in my previous remarks, any disposition at all to withhold anything from or inflict anything upon any State of this Union by reason of its participation in the war. I announced then, as I do now, an equal rule for all the States of this Union and all sections; and what gentleman upon the other side of the Chamber can claim more than that the Constitution and the law should have equal application and should bring their benefits evenhandedly to every section of this country without reference to the relation which it occupied to the great conflict? I am as ready to-day to build levees for Louisiana as I am for Illinois, and not a whit more ready. Nor was the Senator accurate when he imputed to me the introduction into this debate of such references to the war. Every word that I said upon that subject, as he knows, was said in response to what he had said and what had been said by the Senator from Missouri, [Mr. VEST.] I undertook simply to combat the idea that we should do something other or more for a State that had been in rebellion by reason of the condition of suffering or poverty which ensued; and I did that in response to the suggestion of the Senator from Missouri that this was a great opportunity for the men of the North to show their magnanimity to the South by voting this appropriation for levees. I am sure, after what I have said, and when my position upon this subject is rightly understood, that no even-minded, fair-minded southern man can claim that I have withheld anything.

I undertook to meet two suggestions, to one of which I have already referred, attributing in some degree the suffering and embarrassed condition of the people in the States on the lower river to the emancipation of the slaves, and their present inability to do what the Senator from Louisiana [Mr. JONAS] said they did do before the war,

maintain a perfect system of levees, and that at a cost which did not seriously embarrass them or trouble them. I need not pursue that subject further.

I say again, as I suggested before, that this question is a very wide one. If we build levees upon the lower river why shall we not build them on the upper river, for there is on what we may call the upper river in Illinois a very wide and very rich section of country that needs to be, and is to-day, protected by levees, and levees that break with devastating effects upon a large section of country. I suggested before that if we were to do it for the Mississippi we must do it for the Red River and all its tributaries that were similarly situated; and I suggested that the condition of the people upon the shores of any of these streams as to their pecuniary ability to undertake this work for themselves could not at all enlarge our constitutional jurisdiction over the subject and could not be the basis of any legislation here. No one is more conscious than I am that in a time of great distress, wide-spreading, involving not merely individuals or families, but communities and counties, so extreme that it drives people from their homes and leaves them shelterless and without food, it seems to be an ungracious task to suggest constitutional limitations or to speak of dangerous precedents.

The Senator from Arkansas [Mr. GARLAND] used against my position the report which I made recommending an appropriation of $100,000 to feed the people upon the lower river. He asked me how I could justify that appropriation and oppose on any constitutional grounds an appropriation of $15,000,000 for levees? I frankly say to the Senator that I do not know how I can justify that appropriation on constitutional grounds. I do not think any Senator stopped to consider that point. I did venture to suggest in the report which I made on the subject that certainly the extent to which the relief given by the General Government could go would be to meet the first urgency of this great affliction, and after that it should be turned over to that charity and public benevolence which have never failed in any section of this country in time of distress, and which have been strong enough to cross seas to the relief of suffering people. But it was not so. We went on and appropriated to the extent of $350,000, besides some smaller appropriations for other specific methods of relief. I frankly say to the Senator that I do not know upon what constitutional provision we can justify those appropriations. I do not think any one stopped to ask that question at all. But it is hardly fair to turn that benefaction against us and to bring our consistency into question when we do stop a moment to inquire whether we shall appropriate $15,000,000 without constitutional warrant. That is the danger of all these things, little or big. When for once, under the impulse of good fellowship and good feeling, under the stir of those sympathies which every kind-hearted man feels, something is done in the way of benefaction, it will come back to trouble us.

I was anxious that, so far as I had it in my power, the Senate should have a clear and distinct idea of the bill reported by the committee, its effects and limitations, and of the amendments which have been proposed to it. The bill itself as reported by the committee, I say in the outset, appropriates practically every dollar, just as many millions, as the commission have asked for all purposes; but it contains a limitation as to the use which may be made of this money, and that limitation is in these terms:

Provided, That no part of the said sum herein appropriated shall be used in the construction or repair of levees for the purpose of preventing injury to lands by overflow, or for any other purpose whatever except as a means of deepening the channels or improving the navigation of the said rivers.

That proviso clearly divides those who in this Chamber desire to vote money for the improvement of the navigation of the river and believe such an appropriation to be constitutional and proper, and those who ask that some part of this appropriation, or an increased appropriation, may be voted either specifically for the construction of levees without reference to navigation, or may be voted under such ambiguous terms of appropriation that the commission may construe it into an appropriation for the construction of levees to prevent overflow.

This bill, as I have said, gives every dollar, but limits the use of it to a specific purpose. We have a clean-cut, a very sharp limitation here that all can understand. The bill itself must be satisfactory to every one who is willing to limit the appropriation to channel improvements, because it puts no restriction upon the use which shall be made of the money except that it shall be used for channel improvements and shall not be used to reclaim lands. Of course those who take the view that the Government should go into the business of reclaiming these lands will be dissatisfied with this restriction; but if it were stricken out and the bill were left otherwise as it stands, what would be the effect of it? We have given here the exact sum which the commission ask for channel improvements and for levees both; and they could not construe it otherwise but as an invitation from Congress to spend $2,000,000 with the express view of restoring what are called in the reports the breaks in the existing system of levees.

Those who intend that would naturally desire to strike out this proviso, but those who believe that the money should be devoted primarily, with the sole object in view of improving navigation, cannot insist that this restriction in any way hampers the proper use of the money.

I like the way the Senator from Arkansas gets at this question. I have been resisting all the time a disposition to slide into the levee project rather than to walk into it. I think I know that in the original act as it was framed defining the duties of the commission there were words very skillfully introduced intended to open the way to that which we have under full discussion to-day.

I like better, I say, the proposition of the Senator from Arkansas when he boldly affirms the power of Congress to appropriate money to build levees to reclaim these lands for the sake of reclaiming them, and asks that we enter candidly and honestly upon the discharge of that duty. Then any suggestions which may be made with a view of weakening this proviso to the bill are only intended to open a track through which that may be accomplished by indirection which the Senate are not authorized directly to do. Therefore, I express the hope that the bill as it stands may pass. It gives money enough and it limits the use of it to right purposes.

The position of the commission upon the report submitted seems to be the subject of difference in this Chamber, and I confess that to me it is strange that it should be so. I think I can in a very few minutes show that I represented in my first speech on this subject the conclusions of the commission correctly and fully. The gentlemen who have spoken upon the other side have read from an appendix which is attached as an exhibit to the last report of the commission; they have read from testimony before a House committee at this session, and they have read what purports to be and is proposed or intended as a report of Captain Eads, a member of the commission. I want to give the Senate, if I can, in a few minutes an exact and clear view of what the commission has said.

Let us understand this matter at the outset. The commission was required to report upon the levee system, and to report estimates of the costs for constructing levees; and the very fact that they have done so, complying with the organic law of the commission, is now used as evidence that the commission recommend these levees. My legislative experience is too short to verify it, but I am told that it is not unusual that the Senate adopts what seems to be rather a harmless resolution of inquiry directing an engineer officer to survey a certain stream and to report the cost of improving it, and when his report comes in it is taken to be a recommendation of the Engineer Department that the work should be done, instead of being as it is a mere response to an inquiry by Congress as to the cost of doing the thing, leaving Congress wholly unembarrassed upon the question whether it will do it or not when the report comes in.

As I have said, the commission was compelled to report upon the levee question, and in its first report may have said, "We do not know what a complete system of levees will cost; but we estimate upon the best information we have that it will cost about two million and twenty thousand dollars to repair existing breaks in levees." What is the last report that comes to us with the message of the President? It is simply an addition saying that "by reason of the floods which have recently occurred in the river our estimates of the amount necessary to close existing gaps of levees must be doubled." That is what it is, and nothing more.

I undertake to say that the commission has not in any report recommended the construction of a system of levees upon the Mississippi River. The commission reported, as it was directed to do, what it would cost, and the question is wholly free from embarrassment to us to-day whether we shall undertake the work or not.

The Senator from Mississippi, [Mr. GEORGE,] whose candid, very careful, and very able discussion of this great question I listened to with deep interest, read at length from the appendix of the last report of the Mississippi River commission. The commission themselves have told us in introducing that appendix, and in the very report to which it is attached, that they are not themselves satisfied with the evidence which it contains, and yet the evidence there contained is brought here and it is asked that the Senate shall be convinced by it when the commission, two members of which submitted this report as a sub-committee on levees, report that they are not themselves satisfied with it. Let me read just a word or two. I read now from page 10 of the report of the commission:

The utility of levees as a means to "deepen the channel" of the river and "improve and give safety and ease to the navigation thereof," which are other ends enumerated in the act, is a subject on which differences of opinion exist—

That is, exist in the commission—

and in respect to which the facts collected do not carry equal weight as evidence to the minds of all the members of the commission.

Yet we are asked to regard this evidence as satisfactory here and to act upon it.

It is considered by all that levees, by confining the flood-waters of the river within a comparatively restricted space, do tend, in some degree, to increase the scouring and deepening power of the current. But the extent and potency of their influence in the improvement of the low-water channel, in respect to which, for the purpose of navigation merely, improvement is most needed, and their value, for that purpose, as compared with other methods of improvement, and as compared with their cost, are regarded as subjects requiring further observation and study, and the accumulation of further and more comprehensive data.

In regard to all the evidence from which the Senator from Mississippi read, and which other Senators introduced here as being before the commission, the commission agree and say that the information which they have, the data they have obtained are insufficient to enable them to pronounce a judgment upon this question; and yet we are urged here by Senators (and I make no complaint of it, because I can

readily understand what pressure is behind them in their States) to act now upon this question, when the commission we have constituted to study it tell us that the very facts which they comment upon are insufficient to justify them in forming a conclusion.

The Senator from Arkansas very kindly said that he did not desire to impute any intentional omission to me, but that in reading the opinion of the commission upon this question I had omitted one clause which he affirmed to be expressive of a decided opinion on the part of the commission as to the effect of the levees. The clause referred to by the Senator from Arkansas reads as follows:

There is reason to believe that during the period when levees were in their most perfect condition, from 1850 to 1858, the channel of the river was better, generally, for purposes of navigation than it has been since that time.

The Senator argued that this was fully committing the commission to the proposition that levees did improve the navigation of the river. After they had collected largely more facts than those which are set out in this minority report, they tell you, in the language I have read, that they still have not facts enough to answer this question; yet the gentleman argued that upon the single expression that it was believed—not demonstrated, but believed—that from 1850 to 1858 the navigation of the river was good and that levees existed at that time, any engineer, yes, any Senator, could from that single fact derive a safe conclusion as to the effect of the levees. I do not know whether there was a comet in any one of those years, but it would be almost as safe to conclude that if there had been there was some connection between good navigation and the comet. Certain it is that upon a single statement like that, not yet well authenticated as a fact, and if a fact it is a single fact that did not take into account the varying condition and effect of that river, it is claimed that any engineer or any Senator could base upon that a conclusion as to the usefulness of levees.

So it is that I come back to the language of the commission. They are not themselves agreed upon this question, and the evidence they have is not satisfactory to them, and so they reported what they had said in the previous report and what I quoted in my first speech, the substance of which is that levees were not "demanded," which is the expression used in one quotation; in another it is said that they are "not necessary" to a system of channel improvement.

The Senator from Mississippi, in discussing the constitutional question, very fairly said that I laid too much stress upon the word "necessary;" that the constitutional power extended beyond that which was in the strictest sense of the term "necessary." I agree that we may adopt reasonable methods; that we may almost go to the extent of convenience in determining whether a matter is or is not necessary or properly connected with navigation; but when we undertake a great work that involves money, and we set before us a single object, which is the improvement of the navigation of the river, then I say, while we may have no constitutional limitation as to spending money in certain directions which may be convenient in connection with navigation, we have the limitation that we shall undertake nothing except that which proximately, in the easiest manner, and at the least cost will accomplish the object we have set before us. Is not that the duty of any engineer? If the Senator from Mississippi had an engineer or an architect employed to do a piece of work for him, and the object to be accomplished was set before him, would he not think he had departed from his duty and obligation if he did not confine himself to those things that would accomplish fully the purpose which he had set before him, but undertook to drag in something else that might have some connection but that was not necessary to the result which was to be accomplished?

The Senator very candidly said that the other thing, drawn in and connected with navigation, must not be drawn in in the nature of a pretext, but must be really and obviously for the purpose of accomplishing the object set before us. I am willing to judge the whole question upon the rule he suggests. If the object is to improve the low-water channel of that river, to give a way for boats, a sufficient depth of water that we may carry cheaply and at all seasons the commerce up and down the river, then what have the commission said? They have said, and I affirm not only upon their reports but upon knowledge, there was not a member of that commission who was not willing to say that these interchannel works which they contemplate would be in themselves, of themselves, and without any help from anything else, efficient to accomplish this purpose. If that is true, how can we justify ourselves in regard to the levees?

The argument of the Senator from Mississippi was ingenious and forcible, and I am sure sincere; yet I would respectfully ask not only that Senator but all Senators whether it is not apparent from the whole debate that the question of levees is looked at by all the Senators and by all the people in those States, not as a project for improving navigation, but as a project of land reclamation. Let me suppose that that stream found its way through land that was not cultivable, does anybody believe that engineers looking to the improvement of the navigation of the river would consider the levee project for a moment? What was it, then, that induced the leveeing of it? What is the real stimulus and motive? Every candid man must admit that it is the reclamation of land. Therefore, instead of regarding the reclamation of land as an incident to something to be done for navigation, the aid to navigation is the incident, and a forced and strained one, sought after with labor, whereas the effect upon the land is the primary and real purpose.

The conclusions of the commission are: first, that these interchannel works are necessary and nothing else can be substituted for them; and, second, that they are in themselves and of themselves equal to the work of the improvement of the channel of the river. But if a great deal of the evidence which was read were to be allowed its full force, it would suggest that we might dispense with the channel works and depend upon levees altogether. If the commission could be satisfied and the Senate could be satisfied that the testimony of the witnesses which was read by the Senator from Mississippi is reliable, and if the construction of levees, sometimes immediately upon the banks and sometimes a mile back, will deepen the channel, as they say it has done in Red River and at some other points, then for one I am ready to say that those who believe that should consistently advocate the abandonment of these interchannel works altogether and depend on levees. The evidence proves too much. These will not go together.

Mr. President, I do not intend to spend much time on the constitutional question. I am not a constitutional lawyer, and in the presence of the members of the Judiciary Committee on this side and on the other side of the Chamber I should tremble to make any assertion with any great degree of confidence upon the constitutional features of this question. Yet I was a good deal surprised at the view taken of the Constitution by the Senator from Arkansas, who is a member of the Judiciary Committee and whose views upon all legal questions, as they have been expressed since I have been in the Senate, I have listened to with the greatest interest. I notice he almost always goes to the books. He gives us frequently references to cases decided by the Supreme Court of the country as the basis of the legal position which he takes. When he is arguing a constitutional question he usually goes to the book and locates himself so that we can know upon what particular clause of the Constitution he stands in his argument. I noticed, however, that in his first discussion of the levee question the Senator brought no books, as I had occasion to say before, except books which related solely to the question of the admiralty control of the Government over the river and had nothing to do with the building of levees for the reclamation of land. But I understood the Senator to affirm that, under some power or grant of the Constitution, Congress had power to appropriate money to reclaim the lands of A, B, C, and D, individual owners of land in his State. I took occasion to ask whether the Senator meant to say that it would be a constitutional use of public money if a law were to be introduced here appropriating $100,000 to drain the Kankakee Swamp in Indiana, now held by individual ownership, and he said he thought it would be a perfectly constitutional use of public money.

I do not know where we have any limits to that sort of legislation. It amounts to saying that we have here as Congressmen the right to donate money to fence men's farms, to build their houses, to enrich them in any way we please, and so an act to appropriate $10,000 to fence John Smith's farm would be a constitutional and valid law.

As I said, I am modest in discussing these constitutional questions, because my practice has not been of that kind, and I have not been brought often in contact with such questions; but if this view is sustained it enlarges my ideas of the scope and power of this Government, and I thought they were pretty wide already. I am a little surprised to find myself discussing a question of this kind as one of those who believe in the big N theory, but still, large as I have been in the habit of making the N with which I spell nation, I had never got it large enough for this.

The Senator from Arkansas referred to the celebrated report made by Mr. Calhoun in 1846, and I confess that I was utterly amazed. I thought I must not only be a very poor constitutional lawyer, but I must be very poorly versed in the political history of the country if it could be possible that John C. Calhoun, the apostle and founder almost of the State-rights doctrine, ever had asserted such views of the Constitution as the Senator from Arkansas affirmed; because when I asked the Senator on what clause of the Constitution Mr. Calhoun put his advocacy of appropriations to build levees I understood him to say that he put it upon the clause which gave power to regulate commerce between the States and that other clause which gave power to provide for the general welfare.

Mr. GARLAND. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Indiana yield?

Mr. HARRISON. Certainly.

Mr. GARLAND. The Senator is mistaken as to what I said, or I was mistaken in understanding him at the time. I understood the question as it seems to be recorded in the RECORD. I said that Mr. Calhoun in making his report—

Analyzed the Constitution from A to Z on this subject, and here is what he says in reference to it.

Mr. HARRISON. Allow me to ask the Senator under what clause of the Constitution, or did Mr. Calhoun refer to any specific clause?

Mr. GARLAND. Mr. Calhoun referred specifically to the clause empowering Congress to regulate commerce between the States, and to do those things needful for the welfare and protection of the people of the Mississippi Valley.

He referred also to other sections, but the question was not, as put to me, upon what ground he placed the power. He placed the power

specifically upon the commerce clause of the Constitution and that alone. He did not place it upon the other two powers on which the Memphis convention in their memorial placed it. That is the distinction.

Mr. HARRISON. I think the Senator is mistaken. I think I shall be able to show in a moment by a reference to the report that Mr. Calhoun did not discuss the question of building levees as in any way connected with the commerce clause of the Constitution, and especially that he did not affirm, as I understood the Senator to say he did, and as was advocated by the Senator himself, that there was power to appropriate under some clause of the Constitution money to reclaim land from overflow that was held by individual ownership. I wish to refer to the report. The Senator has called it an interesting one, and so it is. There had been a convention held at Memphis, Tennessee, which had suggested some very extensive works of internal improvement. Among these was the improvement of the Mississippi River, and other projects contemplated the construction of railroads, and so on. Mr. Calhoun made this report, as I have said, in 1846, and in the course of it these various projects are discussed. I will trouble the Senate to give me a little time, in order to call attention to one or two paragraphs. I want to show just how far Mr. Calhoun did say the power to regulate commerce on the Mississippi went; and I will show the Senate that he put a much more narrow construction on it than I am doing. I will say further that I think he never suggested anywhere in the report the power of Congress to build levees to reclaim private lands; and he did not suggest that the Government should give those lands to the State for that purpose. I find that the fame and the reputation of Mr. Calhoun do not suffer at his own hands when I read his report. I see in the expression which I shall read presently, that John C. Calhoun, as I had appreciated him in history, was true to those sentiments which had been attributed to him. He said:

> Whether the Federal Government possesses the power or not, it is certain it has heretofore acted on the supposition that it did, as the numerous acts of Congress for the improvement of the navigation of the Mississippi, including its principal tributaries, abundantly prove.
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> Your committee, after the most mature deliberation, are of the opinion that this power does not authorize Congress to appropriate and expend money, except as a means to carry into effect some other specifically delegated. In coming to this conclusion, they concede that the provision not only delegates the power to lay and collect taxes, but also that to appropriate and expend the money collected to pay the debts and provide for the common defense and the general welfare of the United States. Such they believe to be the plain import of the words. Indeed, they cannot see how any other construction can be put on them without distorting their meaning. But they deny—

They deny, Mr. President—

> That there is in constitutional language any general welfare of the United States but such as belongs to them in their united or Federal character as members of the Union. The general welfare in that language is the welfare which appertains to them in that character in contradistinction to their welfare as separate and individual States. Thus interpreted, the general welfare of the United States cannot extend beyond the powers delegated by the Constitution, as it is only to that extent that they are united or have a Federal character. Beyond this they constitute separate and distinct communities, and as such have no union nor common defense nor general welfare to be provided for.

Further, he says, and this is the characteristic language which shows the authorship:

> Ours is a Union of sovereign States, for specific objects. As members of the Union, they constitute not a single State or nation, but a constellation of States or nations, and hence its powers and the objects for which it was formed are appropriately called Federal, and not national. But, whether the one or the other term be used, the reason already assigned to show why the general welfare, in constitutional language, does not extend beyond the welfare of the States in their united or Federal character, that is, beyond the powers delegated by the Constitution, is equally applicable.

He took the ground in this report that we could not improve a river which is in one State; that we could not improve a river which is in two States; that a river must be, some part of it, in three States before the power under the commerce clause could be extended to its improvement. Not only that, but he took the position that we had no right to build levees except as they might improve Government lands, and we had a right to contribute by land or otherwise for their construction because of the benefits which would be received by the United States as the owner of the land. Without detaining the Senate further I come to what is said in the report on the subject of levees. I will read first what the distinguished South Carolinian said as to what is embraced in the power to regulate commerce:

> It has been stated that commerce, in legal and constitutional language, includes transit or navigation as well as trade. It may well be questioned whether it was not intended by the Constitution, as far as it relates to commerce among the States, to restrict it entirely to the letter—

"Latter," I suppose it should be—

> that is, transit by vessels on water. Certain it is that the provisions connected with and having reference to it would indicate that it was so intended; and it may be added that the legislation of Congress in carrying the power into effect, as far as your committee is informed, is confined to the regulation of transit by water to the exclusion of that by land.

Then as to how far they may improve the Mississippi River, Mr. Calhoun said:

> They are of the opinion it extends to the removing of all obstructions within its channel, the removal of which would add to the safety and facility of its navigation, including such as might endanger or impede it by sliding in or projecting from its bank, or islands, over the channel. It includes (to be more specific) the removal of snags, logs, rocks, shoals, sand-banks, bars, including the one at its mouth, and trees projecting over or liable to slide into its channel, where the removal would improve or secure its navigation.

There is the limitation placed upon the power to improve the river, the specification as to the causes to which it would extend, as given by Mr. Calhoun. You see he does not put it on the bank at all; he does not so much as allude to this power as extending beyond the bed of the stream and that which would obstruct a vessel traversing it.

As I promised, I now come to show the Senate what he did say on the subject of levees, and I say again that the Senator from Arkansas is entirely mistaken in supposing that anywhere in this report did Mr. Calhoun consider the levee question as related to any constitutional clause or discuss at all constitutional power in connection with it. What he does discuss is simply a practical and business method by which the question may be disposed of. I will show the Senate that he held just the view which I have advocated here, namely, that lands, which are to be increased tenfold in value by the expenditure of money, having in view that increase, should contribute to the work which is to be done. I believe that is an honest maxim which runs through very many of the laws in all our States, and will commend itself to every unprejudiced man who will think about it. I do not believe there is a Senator representing one of the States who, if he will candidly sit down and discuss this question, will not admit that if this appropriation is to have in view the improvement and reclamation of lands, and their value is to be increased, as the Senator has said, tenfold in value, those lands ought to bear the cost or a large share of the cost, and that it ought not to be distributed over the whole country and paid by those who do not participate in the benefits. Mr. Calhoun said further:

> Having now finished the portion of their report which relates to the improvement of the navigation of the Mississippi, including its great tributaries, your committee will next proceed to the consideration of that portion of the memorial which relates to the reclaiming, by embankments, the public lands—

Notice, Mr. President, "the public lands"—

> which, in consequence of being subject to its inundations, are not fit for cultivation.

The memorial seems to have suggested that the United States should reclaim its own land. Let us see what he said further:

> The subject is one of no small importance. The Mississippi, like most of the other great rivers, has formed by its deposits, in the long course of years, a tract of great extent and fertility in its approach to the ocean, and which is subject to inundations by its floods. There is no data by which the extent of this tract can be ascertained with any accuracy.
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> It is believed by far the greater part may be reclaimed by a proper system of embankment. It is more difficult to estimate with any precision what portion of it is still public land.

He goes on to say:

> Your committee are of the opinion that something ought to be done toward bringing this great body of fertile land into cultivation. While it remains in its present state, with one, and that the larger, portion held by the Union, another (that granted for schools and other purposes) by the States, and a third by individuals, and these several portions not held in parcels or bodies separate and distinct from each other but intermixed one with the other, nothing can well be done toward reclaiming them.

That is what the Senator quoted. Now let me go a little further with the quotation:

> It would require the co-operation of the parties interested, each in proportion to the extent of his interest, to accomplish the object. To obtain such co-operation and fix satisfactorily the amount that each should contribute toward making the necessary embankments would obviously be a work of too much difficulty and complication to be undertaken.

What was the suggestion of Mr. Calhoun? He says the Union, the United States, owns a large quantity of land; the State of Louisiana owns a large quantity of land; individuals own other lands; we cannot tell how much each ought to contribute; every person should contribute in proportion to his interest to the construction of these embankments to reclaim the lands from overflow—and what is his suggestion? His suggestion is that the Government should sell out its land to individual owners at a graduated price, falling at intervals, and when it got down to twenty-five cents an acre the Government should give what was left unsold to the State of Louisiana. There is no suggestion there of the condition which appeared in the subsequent legislation, namely, that the proceeds of those lands should be applied to reclaiming them. Therefore, so far from sustaining the suggestion that the Government had power to build levees, Mr. Calhoun does not discuss the question except as the Government was interested as an owner of the land—not as a sovereign but as an owner of the land; and the project for relieving the question was that the Government should cease to be the owner of the land, and then the cost of constructing the levees could be levied upon the individuals who owned the land.

Mr. President, I have no other feeling in the discussion of this question than to arrive at that which is right. I said before that I believe it would be a great blessing to the people on the lower river that this question should be settled now and settled permanently. So long as they are looking to the Government to do some part of this work, they will themselves do nothing. I believe to-day that if the expectation that out of the public Treasury and without cost to them these levees could be constructed were once dispelled and

put away, there is energy and force enough in those States to reclaim these lands which are described as so magnificent in themselves and capable of such magnificent productions.

The Senator from Mississippi said that this wealth is potential. Potential wealth is available wealth. Any enterprise that can show its capacity to produce the $750,000,000 that he talked about can command the capital of this country to do the work that is necessary to make that potential wealth actual.

I believe that instead of modifying this bill and holding out expectations, we should come upon some understanding with those States now, and either take the levee business on our shoulders, and say to them "we will reclaim your lands and appropriate money enough to do it," or give them to understand now that we will not, and that they must look to their own energy. As long as this question is unsettled, as I have said, it will simply encourage the supineness of those who should stir themselves to this work.

I have already said, Mr. President, that I believe it to be entirely possible and altogether fair that these States should by some method levy a tax for this purpose, and that there are methods by which we may co-operate with them and aid them in connection with the improvement of the river that will greatly lessen the cost of this work to them, and will greatly increase its permanence, and diminish the cost of its maintenance, and I repeat again that so far as there shall be beneficent incidents, so far as there shall be healthfulness and gain to these afflicted people of the South by the discharge of our duty to improve that river, I would welcome the beneficent incident and not stand too close on the edges of it. It is possible for those States to inaugurate a system of legislation by which the help of the General Government may in some proper way be given to them, and at the same time not to put upon the public Treasury and the tax-payers of the whole country the entire burden of building a system of works that is intended to reclaim their own lands.

And now, Mr. President, I hope I have not said anything, either in my remarks to-day or at any previous time, to give anybody, not specially touchy or sensitive, any suggestion that I feel an unfriendly spirit to those people or have failed to enter fully into the afflictions and distresses under which they have been suffering. I am sure that the calm judgment of Senators will prevail upon this question, and that we cannot by reason of the sympathy we feel for them go into a class of legislation which must bind us by precedent to allow our sympathies to take up the sufferings and to relieve the distresses of all people in our country.

Mr. VEST. Mr. President, I have been told that in my absence from the Chamber the Senator from Indiana [Mr. HARRISON] stated that he was induced to make the remarks that he did the other day with regard to the claim of the Lower Mississippi Valley for the leveeing and improvement of the Mississippi River, by a statement I had made to the effect that the people of that section claimed the improvement of the Lower Mississippi on account of the losses incurred by them in the late rebellion.

Mr. HARRISON. The Senator misunderstands me altogether. I quoted in my previous remarks what the Senator had said, as taken from the RECORD, and which simply appealed to the magnanimity of the North to take this great occasion to heal the division. That is what I said.

Mr. VEST. I was not in the Chamber. What I have stated was reported to me. I was singularly unfortunate in what I said if I did make that impression upon any Senator present. I did claim, and I claim now, that the Government of the United States owes it to itself and owes it to the entire country, and not exclusively to the people of the South, that its property, the Mississippi River, should not be an instrument of terror and of annually recurring loss and damage to the people of any portion of this country. I did say then that no moment could be more opportune than the present, when the South in the providence of God had been desolated by war, pestilence, and famine, for the great and victorious and wealthy North, controlling the Government, to hold out a helping hand to them. I say it now, sir, and I undertake to say that in less than fifty years from this moment, and—

> The sunset of life gives me no mystical lore,
> Nor do coming events cast their shadows before—

but I say, believing in the broad catholic nationality of this country and in the progressive ideas of the American people, now in their infancy, in less than fifty years the wonder will be that any Senator from a sovereign State ever stood upon this floor and questioned the right and duty of the National Government not only to improve the Mississippi River, but to reclaim that magnificent alluvial territory from the ravages and desolations created by the property of the Government itself.

Mr. President, I thank the Senator from Maine [Mr. FRYE] from my heart for his patriotic utterances the other day, in which he said what I have always believed, that the people of the North did not hate the people of the South, as I know the people of the South do not hate the people of the North; and what I meant to say then and say now is that there can be no theater, no question, no idea, no argument upon which the two sections can meet upon such common ground with such true and honest and real fraternity of feeling as in the improvement of this magnificent river, the unquestioned property of the whole nation.

Sir, the Senator from Maine spoke of what the North had done for the South. It has been most generous; and when at Vicksburgh that Northern soldier fell a victim to the scourge which was desolating the people whom he had assisted to succor, the last vestige of sectional feeling was eradicated from every true and honest and brave Southern heart; and when the bullet of the assassin struck down the late President of the United States, from every hamlet and township in the whole South came the wail of undisguised and honest grief. And, sir, why should it not have been so, when that Chief Magistrate had spoken so much better than I could ever hope to do the words that I have before me, the same sentiment and expressed the same feeling I have feebly attempted to utter to-day? Said James A. Garfield, when an honored member of the other House:

> I believe that one of the grandest of our material national interests—one that is national in the largest material sense of that word—is the Mississippi River and its navigable tributaries. It is the most gigantic single natural feature of our continent, far transcending the glory of the ancient Nile, or of any other river on the earth. The statesmanship of America must grapple the problem of this mighty stream. It is too vast for any State to handle; too much for any authority less than that of the nation itself to manage. And I believe the time will come when the liberal-minded statesmanship of this country will devise a wise and comprehensive system that will harness the powers of this great river to the material interests of America, so that not only all the people who live on its banks and the banks of its confluents, but all the citizens of the Republic, whether dwellers in the central valley or on the slope of either ocean, will recognize the importance of preserving and perfecting this great natural and material bond of national union between the North and the South—a bond to be so strengthened by commerce and intercourse that it can never be severed. [Applause.]
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> I rejoice in any occasion which enables Representatives from the North and from the South to unite in an unpartisan effort to promote a great national interest. [Applause.] Such an occasion is good for us both. And when we can do it without the sacrifice of our convictions, and can benefit millions of our fellow-citizens, and can thereby strengthen the bonds of the Union, we ought to do it with rejoicing; for in doing so we inspire our people with larger and more generous views, and help to confirm for them and for our children to our latest generations the indissoluble Union and the permanent grandeur of this Republic. I shall vote for this bill.

So speaks the dead President from his grave to-day in letters of gold the language of fraternity, the bond of an indissoluble Union bound together by no coercion, but bound together by the bonds of a confiding nationality which will last as long as the human heart shall beat. I meant to say this the other day—this and nothing more. Sir, I have taunted no State with what this Government has done for it in improvements of rivers or of harbors. The history of this Government has been but the history of every other government and the history of the human race; with political power has come the improvement of natural and material resources. When the Atlantic States held the power the rivers and harbors of the Atlantic States were improved, and as the tide of population gradually poured to the West the improvement of rivers and harbors has gone with the amount of that population. Therefore we find—and I speak it to invoke no sectional distrust or hate; I speak it only to show the just and equitable claims of the section to which I belong; and when I say I belong to a section I mean that I belong to that section only as a part of this great Union—we find that from 1789 to 1873 the New England States received $2,440,388 for river and harbor improvements; the Western States on the Mississippi River received $1,481,464; the Atlantic States received $5,190,179; the Lake States received $5,155,253. During this time the great States of the Mississippi Valley and the northwest tributaries of that river received altogether $1,481,464.

Mr. HOAR. What period was that?

Mr. VEST. From 1789 to 1873. In this time New England received in excess of the Mississippi Valley States $958,924; the Atlantic received more than they by $3,708,715; the Lake States more by $3,673,789.

Mr. President, I again repeat, for I want no mistake in regard to it, that I blame not these sections or these States for improving their rivers and harbors. I simply state these figures here to-day to show the just demands of the States in the Mississippi Valley for like improvements to this great river that belongs to the whole United States.

Mr. President, a word further in regard to the constitutional question——

Mr. FRYE. Will the Senator allow me right there, before he goes further, to ask him a question?

Mr. VEST. Certainly.

Mr. FRYE. Does the Senator think that this appropriation, unanimously agreed upon in committee, of $6,000,000, to be expended in one year on the Mississippi and Missouri rivers, and the expenditure of $150,000 authorized yesterday for Memphis, is a step toward generosity to that section?

Mr. VEST. I do. I do accept it as a step in the proper direction, and appreciate it, as the Senator from Louisiana [Mr. KELLOGG] suggests. If the Senator from Maine means by "generosity" to convey also the idea of justice, I emphatically accept it. I say it is time the Mississippi River should receive these appropriations from the General Government; time, because it is the property of the whole Union; time, because the great States upon its banks, my own State included, are just commencing the formation of an empire that will dazzle the world with its grandeur, feed the world, and in its political influence control this continent.

Mr. President, I could go further, and take the statistics from 1824 to 1876 of appropriations for two States alone—and I say to my friends

from Michigan and Wisconsin again that I mention this not as a reproach to them; I honor those States for having attended to their material interests—those two States received in that time together $9,079,464, and the Lower Mississippi River received during the same time $3,761,941. There is the difference in the appropriations, and so stands the account to-day.

Now, sir, as to the constitutional question, in my mind it simply amounts to this: that the power exists on the part of the General Government to improve its own property, the Mississippi River, in its own way, is as unquestioned in my mind as is my power to improve my real estate in any State of this Union. The Senator from Indiana [Mr. HARRISON] undertakes to convict my friend from Arkansas [Mr. GARLAND] of inconsistency when he says that he asked him a question in regard to the improvement of a swamp in the State of Indiana by the General Government. Ah! Mr. President, that is no fair way to put this question to the country. The General Government has no right to improve my property; the General Government has no right to improve the property of five men, of ten men, of twenty men, of one hundred men; but the General Government has the right under the Constitution, for a national purpose, a national object, to exhaust the Treasury of the United States if it sees proper. In the case of McCulloch *vs.* The State of Maryland, the Supreme Court of the United States announced the doctrine, which has stood unquestioned ever since, that the general powers conferred by the Constitution upon the Congress of the United States carried with them all legitimate powers, all powers that by corollary or deduction could legitimately flow from those great powers.

There are half a dozen sections of the Constitution under which this power exists, but we put it on one alone, and I go not back to Mr. Calhoun to get the authority. I say when the Constitution gives the power to Congress to make all needful rules and regulations in regard to the territory or other property of the United States, it gives the right to improve the Mississippi River. In the Gratiot case, in 14 Peters, the Supreme Court of the United States decided emphatically that the power to regulate was the power to govern and the power to improve; and is not this river the property of the United States? What Senator here denies it? What Senator pretends to say that the Mississippi River is not the property of this whole country, of the Government of the United States, and of every part of it? And if we have the power to improve in the District of Columbia, if we have the power to improve in the Territories of the United States, we have the right to improve our property in this magnificent river of the Mississippi.

Oh, sir, when $83,000,000 of the public money were given to the Pacific railroads that went with their corporate powers to the Pacific Ocean, this question was settled without difficulty—$83,000,000, the interest upon which we are paying to-day. Then no question was started, or a question was barely raised, in regard to the constitutional power of the Government to make these great highways to the Pacific Ocean; and here is another highway, made by the Almighty God for the benefit of the American people; and yet we are told that the Constitution is so lame and so defective that we have no power to improve this property given to us by the beneficence of the Author of nature himself.

But, Mr. President, more than that. I hold it the duty of the Government of the United States to see that its own property is not an instrument of destruction to its own people. I hold that it is a violation of the compact between the Government and the people if the property of the Government is made an instrument of destruction and ruin to the people who own that Government and for whose benefit that Government was made. Sir, the commonest principles of justice and of law require that I shall use my property so as not to injure my neighbor. What different relation exists between the Government and the people of the Mississippi Valley or any portion of the people of this country than exists between the Senator from Arkansas and myself? He has his property, I have mine; he has his rights, I have mine. The Government of the United States is the property of the people and cannot be antagonistic to the people. If the doctrine is ever established in this country that the Government of the United States is so absolutely disconnected from the interests of the people that the interest of one can be antagonistic to the other, then the end and aim of the Constitution and of free institutions is destroyed *eo instanti* and forever. Sir, is it possible that to-day we must learn the lesson in regard to national obligation and national duty from the countries of Europe?

Mr. HARRISON. Will the Senator allow me to ask him a question in reference to his last proposition, that it is the duty of the General Government so to use its own as not to allow an injury to come to others?

Mr. VEST. Certainly.

Mr. HARRISON. Do I understand the Senator to express the opinion that that ought to be applied to all navigable streams in this country, that the Government should guarantee the riparian owners against injury from flood? I lived on the banks of one of these streams when I was a boy; and it would have been greatly to the interest of our family, in the way of crops and fences and lands, if that rule had been in force then. I think it is a pretty wide one, if the Senator will reflect a moment.

Mr. VEST. I understand the object of the Senator from Indiana. He is perfectly ingenuous, but at the same time his suggestion is unavailing in this case. I am a Democrat; it is not necessary to say that. I am a strict constructionist; it is hardly necessary to those who know me to say that. The Senator from Massachusetts [Mr. HOAR] shakes his head; but I am. I believe in a strict construction of the Constitution, and I say it is a strict construction that the General Government has the right to improve its own property, and I say that it requires no latitudinarian construction to come to that conclusion, and it requires a vast amount of anything else but a patriotic construction to come to any different conclusion, in my judgment.

But to return to the question of the Senator from Indiana. He asks me if I apply this doctrine to all the other navigable streams in this country. Mr. President, I declare the doctrine to-day, as I understand it, according to the Democratic creed, as I have been taught to understand it for forty long years, that whatever the States can do they ought to do themselves, and what the States cannot do for the general welfare ought to be done by the General Government. If there is a navigable stream in the State of Indiana, and it is not national in its character, or if that stream can be improved by the State, then the State ought to improve it.

Mr. HARRISON. The Senator will allow me to suggest that that was not quite the point of my inquiry, if it had a point, as I supposed it had. It was to this effect: I understood the Senator to be arguing that it was the duty of the General Government, its constitutional duty, to protect the riparian owners on the Mississippi River from the effects of overflow, upon the ground that the Government was the owner of the stream itself, and therefore it was the duty of the Government to see that its property did not hurt somebody else. I asked him whether he extended that doctrine to all the navigable tributaries of the river, because there are many of those that overflow and work great damage on their banks. Would he be in favor, therefore, or would he hold it to be constitutional that the Government should undertake either to reimburse those losses or to protect the people against them by leveeing the Ohio and the other tributaries of the Mississippi?

Mr. VEST. If the necessity existed; if 23,727,168 acres of the most magnificent soil in the world were annually devastated——

Mr. HARRISON. But the maxim of law to which the Senator from Missouri referred does not relate at all to the number of people injured or to the extent of the injury. The maxim is that a man shall so use his own as not to produce injury to another—it does not matter whether the injury is small or great. If the principle is logically applied to this case, as a constitutional principle, it must embrace the small as well as the great.

Mr. VEST. If the Senator had only waited a very few moments he would have seen that I was proceeding to answer that proposition and to elaborate what I meant to say.

Mr. President, I repeat that under our system of government, as I understand it, looking in all its details, in all its structure, to the one great end of the welfare of the people, who own the States, who own the National Government, the people, the imperial people of this country, under that structure of government, State and national, I hold that when the States can perform the functions which will bring about the largest amount of prosperity to the people, and can levee streams or improve streams and thereby redeem from destruction large areas of territory in the State, when the State has resources to do it it is the duty of the State to do it. When the State has not the power to do it, when the extent of damage is so great, when the area of the country devastated is so immense that it is beyond the resources of a State or of two or more States to accomplish this object, then I say that the clause of the Constitution intervenes which says that Congress shall provide for the general welfare, not of one State, not of one neighborhood, not of one community, but the general welfare of the whole country, whether that welfare consists in the preservation of one section from destruction or of two or more sections.

That is my understanding of the autonomy of this Government; and, sir, it is not possible for one State or for two or more States in the Mississippi Valley to perform this great work of preserving the valley from the annually recurring floods of the Mississippi River. If I needed anything to strengthen my opinion in regard to it, take the message lately delivered by the present President of the United States—

> Having possession of and jurisdiction over the river, Congress, with a view of improving its navigation and protecting the people of the valley from floods—

Does President Arthur stop with the single proposition of improving the river?—

> and protecting the people of the valley from floods, has for years caused surveys of the river to be made, for the purpose of acquiring knowledge of the laws that control it and of its phenomena.

And he goes on then and says:

> The immense losses and widespread suffering of the people dwelling near the river induce me to urge upon Congress the propriety of not only making an appropriation to close the gaps in the levees occasioned by the recent floods, as recommended by the commission, but that Congress should inaugurate measures for the permanent improvement of the navigation of the river—

Does he stop there?

> and security of the valley.

What does the President of the United States mean by the "security of the valley?" Does he not mean that by levees or by revet-

ment, by all the means recommended by the Mississippi River commission, any measure the Constitution authorizes, the security of the valley shall be maintained from the recurring floods of the Mississippi River? But, sir, I hasten to conclude what I intend to say by asking the question, is it possible that to-day, with our boasted civilization, with our vaunt that we of all the nations of the world have progressed further in the science of government than all that have gone behind us and all that can come before us, we have a Constitution so lame and so impotent that the property of the Government is destroying a large portion of the property of the people and we are to stand here with folded arms and bound hands and say "the Constitution of the country forbids us to interfere?" Is it possible, Mr. President, that to-day we must go back to the monarchies of the Old World to learn the true theory of government, which is the welfare of the people and the preservation of their property?

Sir, what are the Netherlands to-day but made land redeemed from the ocean by the levee system that we propose here for the Mississippi River? Not one foot of soil in the Netherlands but would to-day be under the yeasty waves of ocean but for the levee system there adopted. Sir, the facts as stated in a report made to the British Parliament are most suggestive now in the discussion of this question.

The history of the protection and development of the Netherlands—

I read from an interesting pamphlet of Mr. Alexander D. Anderson:

> The history of the protection and development of the Netherlands, (low countries,) an exact parallel in formation to the alluvial lands of the Mississippi Valley, proves very clearly that we have not overestimated the importance of the subject. The United Kingdom of the Netherlands contains but 12,680 square miles, and North and South Holland, two of the eleven sub-divisions of the same, but 2,209 square miles. The whole of the Netherlands are made land, having been formed by protection from the overflow of the Lower Rhine, the Maas, the Scheldt, and other rivers, ninety lakes, and the Zuyder Zee. The total cost of their protection by dikes, embankments, and other works was $1,500,000,000. The annual cost of guarding, protecting, and repairing is stated to be from $2,000,000 to $2,500,000. Probably that country, in proportion to its population, is the wealthiest nation upon the face of the earth. An elaborate review of the same says: "The country is everywhere well peopled, and no population in the world exhibits a more uniform appearance of wealth, comfort, and contentment." Holland not only has capital enough for home use, but the Dutch of Amsterdam are capitalists who have a large surplus to lend for public improvements and large enterprises in other nations.

All the wealth of this rich and commercially powerful people was accumulated in an alluvial country rescued from the rivers, the lakes, and the ocean by the levee system, and the levee system alone.

Mr. President, I shall not detain the Senate by more than mentioning that magnificent empire of alluvial soil which would be reclaimed if this Congress were true to its mission, as I honestly believe it to be under the Constitution of the country—23,727,168 acres of land the possibility of whose production is almost incalculable. Think of the cotton alone which could be raised upon it; think of the corn, of the grain of every description that would spring as if by magic from that land if this Congress would protect it from the ravages of the river that belongs to the Government itself. Oh, the Senator from Indiana tells us, let those States do it; let them, like boys that are flung out in the world, learn to take care of themselves.

Mr. President, that is not what I have heard here for the last two years. Bill after bill has been introduced into Congress to donate money to the Southern States for educational purposes. A bill is now pending here for the purpose of taking the entire internal-revenue tax on alcoholic liquors and giving it to the Southern States for educational purposes. We say, and I say to-day to this Congress, give us the money to reclaim those lands and we will educate the people; give us the material wealth and prosperity that will come from this reclamation, give to the people of the South to-day the assistance that now is worth more to them than untold millions will be worth hereafter, and my word for it the people of that country will be educated, the resources of the country will be developed, and the aggregate wealth of this entire Union will be such that what exists to-day will be a mere fraction of that which shall come hereafter.

Sir, upon constitutional grounds, upon the grounds which should be dictated by statesmanship and by patriotism, I for one, without disguise, say that the Government of the United States should not only levee the Mississippi River from end to end if necessary, but keep those levees in repair in order to bring that magnificent empire into the highest condition of production for the benefit of the Union at large.

Mr. MORGAN. Mr. President, I have not much to say about this bill, but what I do say I desire to speak with due consideration and carefulness, because I regard it as the initial movement of what may turn out to be a very great advantage to the country or else a large expenditure of money without accomplishing anything. I will not undertake to prophesy as to what the result of this investment of $5,000,000 under this bill shall be, for I have neither the experience nor have I the scientific skill to forecast what that result is to be. I am willing to trust the committee of the Senate who have reported this bill, and I am willing to trust the experts of the commission who laid the foundation for this bill in their conclusion that there are some means to be availed of for the purpose of improving the navigation of the Mississippi River.

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

Mr. MORGAN. Certainly.

Mr. JONES, of Florida. How many rivers are there in the southern country to-day subject to overflow and that have lands that need leveeing and protection?

Mr. MORGAN. Inasmuch as the other southern States have never asked for any levees to protect their lands, I have never put myself to the trouble to count how many such rivers there were.

Some doctrines have been advanced here by Senators who advocate the amendments proposed to this bill which I cannot subscribe to, and I think that it is altogether essential that we should now come to a distinct understanding whether these doctrines avowed by Senators are to be adopted in this measure and made the basis of our future action, or whether they are to be discarded. We cannot pass the few hours that will intervene between this time and final action on this bill ignorant of these questions, and we cannot afford when we vote on this bill to leave them undecided.

It has been broadly stated here, both by the Senator from Arkansas [Mr. GARLAND] and the Senator from Missouri, [Mr. VEST,] that the Mississippi River belongs to the United States, and the Senator from Arkansas went so far, in quoting from what he said was Mr. Jefferson's view of this question, as to assert the proposition that when the territory of Louisiana was purchased from the French we acquired the title to all there was under the river and to all the margins of the river, and that that became the property of the United States.

Just there, Mr. President, is a fundamental proposition of law which requires to be better understood. I take issue with the honorable Senators upon that proposition of law broadly and boldly. I do it boldly because the Supreme Court of the United States have frequently considered and fully decided the question; I do it broadly because the issue is a very broad one, and it is one upon which hinges a great deal that is to be done hereafter if the doctrine insisted on by the honorable Senators is to be carried into the legislation of this country in the future improvement of the shores of the Mississippi River.

The Senator from Arkansas, quoting from Mr. Jefferson, not in so many words, but what he understood to be the substance of some statement he had made, which is printed in the ninth volume of his works, said:

> He said in that document, which is a text-book now, I believe, in all schools on this subject, that the king or sovereign, whatever you may call him, owned the navigable waters, the bed, the beach, and the banks of the river; and when he purchased the Mississippi River he purchased all; he did not purchase merely the bed of the river; and though there are riparian owners, yet they cannot own the land upon the bank and use it to obstruct navigation, for the purpose of obstructing commerce, for that is one of the principles of sovereignty which is never surrendered to anybody or by any government.

That is not as clear a statement of doctrine as the Senator is usually in the habit of making; at the same time, it presents the proposition that when we purchased all that domain which we acquired from France, under the treaty made by Mr. Jefferson, we acquired the right to the land under the rivers, to the rivers themselves, and to the shores. This subject happens to have been several times under discussion in the Supreme Court.

Mr. JONES, of Florida. Will the Senator allow me to interrupt him by stating that, under my view of the law, by the admission of the States into the Union whatever sovereign authority the Government of the United States had passed to the States.

Mr. MORGAN. The Senator agrees with the Supreme Court on that proposition. It was decided as far back as the case of Pollard's Lessee *vs.* Hagan, many years ago in the jurisprudence of the United States. I will read from a late case, however, that of the County of Saint Clair *vs.* Livingston, decided in 1874. One single extract from that opinion covers the whole ground. Referring to the authority which I have no doubt the Senator from Florida had reference to, the court say:

> By the American Revolution the people of each State, in their sovereign character, acquired the absolute right to all their navigable waters and the soil under them. The shores of navigable waters and the soil under them were not granted by the Constitution to the United States, but were reserved to the States respectively. And new States have the same rights of sovereignty and jurisdiction over this subject as the original ones.

That seems to cover the whole question. This decision arose upon a construction of the very treaty by which we acquired from France this vast territory. It was argued in that cause that the peculiar language of the treaty conferred upon the United States in the acquisition of that territory, certain rights which could not be yielded by the Government of the United States, but must be held on to notwithstanding States were carved out of the territory and became invested with their respective sovereign powers. The Supreme Court met the argument by saying you cannot make a distinction between the old States and the younger ones; they all stand on the same footing.

It is not necessary to elaborate that proposition; it is not necessary for an American lawyer to try to controvert it. The equality of the States themselves is made to rest upon the decision of the Supreme Court thus regulating the right acquired by each of the States, whether new or old, to the rivers and soil beneath them and the shores of the rivers at the time of their admission into the Union as States. I dismiss that subject without further comment.

But now, sir, I think the committee have acted very wisely in touching this subject as gingerly as they have when they come to

the question of entering upon the shores of the Mississippi River upon those works which have been already established by the States and under their authority.

The Mississippi River has been leveed in part for many years. Year after year these levees have been extended until through some of the States at least there has been a continuous line of levee, as I am informed, constructed on both sides, and very far up the tributary streams also. Whose property are these levees? To whom do they belong? Unquestionably to the States that erected them, and under whose authority they were erected. What right has the Government of the United States to appropriate these levees to its own use, granting, if you please, that it even has a duty incumbent upon it to protect all the lower lands from overflow? What right has the United States Government, even supposing it has the duty of protecting the lower lands in the valley of the Mississippi against overflow, to appropriate these levees erected by the States? You have no system of law by which it can be done; you have not declared that these levees shall be condemned for public use. They were built for public use, and it would be a curious sort of legislation that would take a structure made for public use, the land for which was condemned under the right of eminent domain in these respective States, and now condemn it by an act of Congress to public uses just the same as those for which it was originally constructed. That would be an absurdity.

How is this commission going, against the authority or license of either of these States, to enter on these embankments even for the purpose of rebuilding them? We have no right to do it under the laws of the United States or the Constitution. Sir, when I find that barrier standing in front of me I stop; I do not go hunting about with microscopic eye to see if I cannot find some word or phrase or some hidden meaning in some sentence of the Constitution to justify me in doing that which I very much desire to do. It is my duty—whether as a Democrat or not makes no difference—it is my duty as an American Senator to stop when I find the barrier of the Constitution in my front, and I do stop. If this bill did not contain the express provision that this money should not be used for the purpose of leveeing to protect private property, I would never vote for it though it appropriated $100,000,000 of money and though every friend I had in the South lived on these shores, for I would have no right to do it. I have no right to tear down a Government in order to build a levee. Our fathers, when they constructed this Government and put the proper balance of powers between the States and the Federal Government, knew what they were doing, and the Supreme Court in following it out have done it as with a pencil of light from the beginning of our Government down to the present time, and I shall follow the authorities on questions of this kind, let come what may.

I do not believe that the Government of the United States has the right to levy a specific tax upon the people of the State of Alabama to build a levee to protect the people of Arkansas, of Louisiana, or Mississippi. Suppose you bring in a direct-tax bill here and declare the purpose of it to be to build a levee to protect the property of the people inundated in the Mississippi Valley, and you apportion it between the States according to population, as the Constitution requires you to apportion direct taxes, I should never be found advocating a bill of that sort on the idea that the Government had the right to impose such a direct tax for the specific purpose of protecting the property of the valley of the Mississippi. I could find no constitutional warrant for that, none whatever.

There are two rivers in my State which unite one hundred and twenty-five or one hundred and fifty miles above the coast of the Gulf of Mexico, and from that on down pass through a beautiful alluvial region. It is very fertile; it makes nine crops out of ten better than it would but for the overflow of the Alabama River, very much better. We have never leveed it at all.

Mr. JONES, of Florida. The same thing is true of the Chattahoochee River, in Florida and Georgia. Some of the finest lands in the South border on that river. The only trouble about them is that the river overflows occasionally and destroys the crops.

Mr. MORGAN. I never have thought it would be proper for me to introduce a bill in the Congress of the United States to ask the Government of the United States, or ask the people of Maine and California and Oregon to contribute out of their means to put a dike on either bank of the Alabama River to protect the cotton plantations or the rice plantations there. I never thought of such a thing; and the only distinction between that case and this is that this is a larger river, it is a national river. I admit that distinction. It is "an inland sea," so called. The "inland sea" used to extend to Cairo; it is only a late discovery, I believe, that the Missouri River is an "inland sea," and that the Upper Mississippi is not, and that the Ohio is. I suppose when we get the "inland sea" doctrine extended we shall have it up to the Alleghany and the Wabash, and perhaps into West Virginia, into some of those trout streams up there; they will be "inland seas," because they are tributaries of the Mississippi.

Mr. FRYE. They are now, in the river and harbor bill.

Mr. MORGAN. I have perceived them on the river and harbor bill, and have heard the roar of that "sea" there for some years past, and set myself in vain against it.

Now, Mr. President, I leave that subject, having said upon it all that I desire to say, for I wish to do nothing more than merely to express my view on two questions of law connected with this bill.

The honorable Senator from Arkansas thought that Congress had committed itself to the whole doctrine of leveeing the Mississippi River because it granted to the States certain swamp lands, upon the trust I will call it, the expectation, (never realized, however,) that the proceeds of those lands when they were sold would be applied to the draining of the lands themselves. The Senator from Indiana elucidated that question sufficiently in his last remarks to the Senate.

That was a peculiar law, a very unfortunate law, a total miscarriage in legislation, one of the most embarrassing statutes ever set on foot. A large quantity of land was granted to the State of Alabama for the purpose of drainage. Much of that land has been sold, nearly all of it, and I have never heard yet of a dollar being appropriated by the government of the State of Alabama for the drainage of a single acre. We have no law on the subject; we have actually paid no attention to the subject at all; we have taken the money and applied it to such other uses and purposes as we thought were best for the good of the people of the State at large.

But the authority which is quoted to sustain that proposition of law, while correctly quoted in terms, has been misapplied; that is, the authority of the great Southern statesman, Mr. Calhoun, who was a strict constructionist of the Constitution and who did understand the principles of the Constitution perhaps as well as any American statesmen has ever understood them. But whoever will read the report of 1846 quoted in this debate will see that Mr. Calhoun was trying to bring the lands in the Mississippi Valley within the reach of private ownership and to enable the men who might acquire them at a quarter of a dollar an acre—for that is the sum he mentioned in his report—to become so rich in the intrinsic value of these lands as that they could afford to put up the money to protect them. He was trying to capitalize the swamps in the Mississippi Valley in order that they might be used by private owners as a fund for the erection of these embankments. The argument was this: the lands are here; they are not useful to the Government of the United States because they are overflowed or swamp lands. "Swamp or overflowed" is the language of that statute. I suppose that every foot of land in the valley of the Mississippi really might have been condemned under this grant to the use of drainage of the land so as to prevent it from overflow. "Swamp and overflowed lands." They were of no use to the Government; they could not be sold, or at least for anything like a fair price.

It was understood then, and believed, that the States would provide with the proceeds for reclaiming them from overflow by levees. I am not a convert to that doctrine. I am merely stating what the people at large seemed to think was the true doctrine on that subject. It was assumed that it was necessary to embank the Mississippi River to keep all those lands from being overflowed, and to enable the States to do it what was done with the lands? They were not sold and the money dedicated to be expended by engineers of the United States Government for the building of levees. The Government of the United States, under the swamp-land grant, never undertook the job of building levees. Who will undertake to say that one dollar of the proceeds of the sales of the swamp lands could be employed by agents or officers of the United States Government in building a dike or a dam or a levee anywhere? Nobody could say it. On the contrary, Mr. Calhoun, following out that doctrine which inspired all of his public conduct, provided in this report and in the bill which followed it that these lands should be granted to the States, and might be sold by the States, that the States might be the better able to employ the proceeds for doing this work. So far from his asserting, therefore, the power of the United States Government to build a levee on the banks of the Mississippi River or anywhere else to protect low lands, he expressly abandoned and disclaimed it by placing these lands in the charge of the States upon a gratuity, without consideration, except that they were intrusted to apply the proceeds of the sales to this purpose. He gave them the lands in order that the States might be enabled to build the walls to protect them against the water; not that we held on to the lands and said we will sell them and put our engineers there to build walls to protect them. There he understood, as with a line of light, the distinction between Federal power and State power, Federal duty and State duty; he drew it as no other man scarcely could draw it in that respect, and there it stands a monument to his fame and to his fidelity to principle. Mr. Calhoun, after having turned these lands over to the States and having allowed them thus to enrich themselves that they might thereby become enabled to build these fences against the overflow of the Mississippi River, did his whole duty. If the States have squandered the grant it is their misfortune. But, sir, we have no right in his name and by his authority to undertake to say that because he was willing to grant lands to the States to enable them to make these dikes, therefore the Government of the United States has any such duty or obligation upon it.

Where was his authority for granting these lands to the States? It is the authority which the Government of the United States, as well announced by the Senator from Missouri, possesses over its own. I concede that doctrine. When the Government of the United States owns a piece of property, it has a perfect right to give it away if it

chooses to do so. It may not be right and proper in morals to do it, but as a matter of constitutional power it has the right. The Government of the United States owns the public lands in all the land States; no question of that; and under an express provision of the Constitution directly bearing upon the question it may dispose of the territory. There is no want of power; it is as clear as it can be made by words.

But, sir, that is a different power altogether from taxing the people of Maine or of Alabama or of Oregon or of California to raise money to protect a man's land somewhere in the valley of the Mississippi River, or it may be in the State of Indiana. That is a different power. We may have, and we have, a very clear right over the public domain to dispose of it as we think proper, and we have exercised it freely in various quarters in bounties and bonuses to colleges and public schools and in every other way that we saw proper without stint and without question; but it is a different power altogether, yes, as different as my right hand is from my left hand, from the power to tax the people of the United States to raise money to be expended in the construction of works for the protection of private property against devastation.

That is all I have to say upon that question. I merely desire to say a word further about this measure. I regret that the Senate is in a hurry about passing this bill; really we should not be. We are acting now under the panic produced by this fearful overflow, this extraordinary flood which has poured its waters over the valley of the Mississippi. We are not in a condition to-day in this body for deliberate legislation on this question. We are urged into it by a popular demand which we scarcely have, it seems to me, the courage to withstand. This bill is not a mature bill; it is not a perfect bill. As far as it goes I will go with it, and vote for it, although I must here say, not in the nature of a prophecy but in the nature of a doubt, that I do not believe if you expended $60,000,000 on the Mississippi River you would do much toward improving its navigation or protecting the people against its overflow.

It is a work of ages. God knows how it is to be accomplished, and I think He only knows.

I think the engineering done by the Mississippi River itself when it was left to itself was about the best that was ever done with a view to its own protection, if what the Senator from Mississippi so well remarked yesterday is literally true, as a matter of fact, and and that is that the Mississippi River had by its own action built up walls on either side. He told us that the land, I believe he said within a mile, or some distance back, was fifteen or twenty feet lower than the surface of the water; and yet the banks at its side were on a level with that bed; no human hand touched it; the trees and plants and grass growing on the margin had collected and formed eddies, which deposited the material coming down from above, and the matter thus collected formed banks which overtopped the valley. That is what I understood to be his description of it, and I have heard that from every person I have ever heard speak on the subject from actual knowledge and observation. Therefore, excuse me if I express a doubt whether the tinkering of man with that stream is going to do it any good. I have great doubt about it. Still the judgment of the country is against me; the judgment of scientific men is against me, and, therefore, I am warranted as a Senator in voting $6,000,000 on this experiment.

It is a vast experiment, sir. Six million dollars in one experimental vote is a large sum of money to commence with, and I wish to see a considerable portion of that money spent, and to have a report of some success in the spending of it before I vote any more. I will go the $6,000,000, under the restriction placed by this committee on this bill, that not one dollar of it shall be used for the purpose of leveeing the banks of the Mississippi to protect private property, but use as much of it as you see proper for building levees when you ascertain from your engineers that that is the best way to deepen the channel of the river.

Mr. INGALLS. Mr. President, I propose to submit some observations on this bill, but as the hour is late, and I am appealed to to yield, if the Senate has no objection, I will give way, retaining my right to the floor on the unfinished business.

Mr. ALDRICH. I ask the Senate to take up a bill to which there will be no opposition.

Mr. KELLOGG. Before the Senate does that let me say a word. I desire to inquire if an arrangement cannot be made by which it will be unanimously understood that a vote shall be taken upon the pending bill some time before we adjourn on Monday. I am advised that there are no Senators who wish to speak, save perhaps two or three on this side who desire each to make a few remarks; and I think as the Senator from California desires to call up the Chinese bill on Tuesday, we can reach an agreement to vote upon this bill on Monday.

The PRESIDENT *pro tempore*. There are a great many other bills besides the Chinese bill about which notices have been given.

Mr. KELLOGG. I only mentioned that——

Mr. CALL. I want to be heard on this bill.

The PRESIDENT *pro tempore*. The Chair will submit the suggestion. The Senator from Louisiana wants the Senate to come to an understanding to take a vote upon the pending bill some time during Monday next.

Mr. PENDLETON. I object to any arrangement of that kind.

The PRESIDENT *pro tempore*. Objection is made to any arrangement.

Mr. COCKRELL. I hope, then, that we shall be able to get a vote on Monday very soon after we take up the bill.

Mr. PENDLETON. That may be done; but I object to any arrangement.

GERMAN PROTESTANT ORPHAN ASYLUM.

Mr. ALDRICH. I appeal to the Senate to let me have taken from the Calendar for present consideration House bill No. 3246.

By unanimous consent, the Senate proceeded, as in Committee of the Whole, to consider the bill (H. R. No. 3246) changing the name of the German Protestant Orphan Asylum Association. It provides that the corporation organized and existing in the District of Columbia, and heretofore known as the German Protestant Orphan Asylum Association, shall hereafter be known by the name and style of the German Orphan Asylum Association of the District of Columbia; and hereafter it shall be lawful to have a board of directors composed of eighteen persons, instead of twelve as provided in the charter of the corporation.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

ENROLLED BILLS SIGNED.

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

A bill (S. No. 361) for a public building at Frankfort, Kentucky;

A bill (S. No. 26) to amend section 2326 of the Revised Statutes in regard to mineral lands, and for other purposes; and

A bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Indian Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication dated the 15th instant from the Secretary of the Interior with draft of bill and accompanying papers touching the amendment of section 2142 of the Revised Statutes of the United States. The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 21, 1882.

HOUSE BILLS REFERRED.

The bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia was read twice by its title, and referred to the Committee on Privileges and Elections.

The bill (H. R. No. 5541) to extend to sailing-vessels the same privileges in unlading cargo as are now granted to steamships was read twice by its title, and referred to the Committee on Commerce.

EXECUTIVE SESSION.

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

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business, being Senate bill No. 1572, upon which the Senator from Kansas [Mr. INGALLS] is entitled to the floor. The Senator from Connecticut moves 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 fifteen minutes spent in executive session the doors were reopened, and (at five o'clock and fifteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 21, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER, D. D.

The Journal of yesterday was read and approved.

UNLADING CARGO.

Mr. DINGLEY. I ask unanimous consent to take from the House Calendar for immediate consideration the bill (H. R. No. 5541) to extend to sailing-vessels the same privileges in unlading cargo as are now granted to steam-vessels.

Mr. MCMILLIN. Let the bill be read.

The SPEAKER. The bill will be read, after which objections, if any, will be in order.

Mr. DINGLEY. The bill amends sections 2871 and 2966 of the Revised Statutes of the United States by striking out the words

"steamship" and "propelled by steam" where they occur, and inserting instead the word "vessel;" so that the law relating to the unlading of cargo may apply to sailing-vessels as well as to steamships. If consent is given to take up the bill, at the suggestion of the collector of the port of New York I will propose a substitute for the first section of the bill as introduced by myself, which I will send up. The amendment accomplishes the same purpose as the original section, but reaches it by adding a new clause to another section of the statutes, so as to give the collector discretion in granting permits to sailing-vessels to unlade by night on the same conditions as are now granted to steamships. The collector thinks that section 2871 of the Revised Statutes better stand as it is now; and that the amendment which I have sent up to section 2872 will make that section cover the whole ground, and in such a way as to work well in practice.

As the law stands now steamships engaged in the foreign carrying trade can have dispatch in discharging cargo, and can discharge by night as well as by day, thus saving wharfage and many other expenses. Sailing-vessels are denied this privilege. As steamships engaged in this trade mainly carry a foreign flag, and nearly all American vessels engaged in this trade are sailing craft, the law as it exists is practically a discrimination against our own merchant marine.

Mr. McMILLIN. I am willing to take, in lieu of the reading of the bill, the statement of the gentleman from Maine in regard to the change proposed.

Mr. COX, of New York. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That section 2871 of the Revised Statutes be amended by striking out the word "steamship" wherever it occurs in said section, and substituting therefor the word "vessel," so that said section as amended will read as follows:

"SEC. 2871. The collector of customs, with the concurrence of the naval officer where there is one, of any port at which a vessel from a foreign port or place may arrive, upon or after the issuing of a general order, shall grant, upon proper application therefor, a special license to unlade the cargo of said vessel at night, that is to say, between sunset and sunrise; but before any such special license is granted, the master, agents, or consignees of the vessel shall execute and deliver to the collector a good and sufficient bond, to be approved by him, conditioned to indemnify and save the collector harmless from any and all losses and liabilities which may occur or be occasioned by reason of the granting of such special license; and any liability of the master or owner of any such vessel to the owner or consignee of any merchandise landed from her shall not be affected by the granting of such special license or of any general order, but such liability shall continue until the merchandise is properly removed from the dock whereon the same may be landed. The collector, under such general regulations as the Secretary of the Treasury may prescribe, shall fix a uniform and reasonable rate of compensation for like service, to be paid by the master, owner, or consignee whenever such special license is granted, and shall collect and distribute the same among the inspectors assigned to superintend the unlading of the cargo."

SEC. 2. That section 2966 of the Revised Statutes be amended by striking out the words "propelled in whole or in part by steam," so that said section as amended will read as follows:

"SEC. 2966. When merchandise shall be imported into any port of the United States, from any foreign country, in vessels, and it shall appear by the bills of lading that the merchandise so imported is to be delivered immediately after the entry of the vessel, the collector of such port may take possession of such merchandise and deposit the same in bonded warehouse; and when it does not appear by the bills of lading that the merchandise so imported is to be immediately delivered, the collector of the customs may take possession of the same and deposit it in bonded warehouse, at the request of the owner, master, or consignee of the vessel, on three days' notice to such collector after the entry of the vessel."

Mr. DINGLEY. I yield three minutes to the gentleman from New York, [Mr. COX.]

Mr. TOWNSHEND, of Illinois. I desire to say one word. I find there is some misapprehension in regard to what I said yesterday as to the granting of unanimous consent. I did not say I intended to oppose an objection to granting unanimous consent, but that I wished the House to adopt this rule, that the privilege of asking that bills be passed by unanimous consent be granted to members in their alphabetical order, so that each and every member may have a like privilege.

Mr. DINGLEY. This is the first time I have asked unanimous consent for anything.

Mr. TOWNSHEND, of Illinois. Hereafter we ought to adopt the plan I have indicated.

Mr. ROBINSON, of Massachusetts. But the gentleman from Illinois [Mr. TOWNSHEND] and myself might not be reached at all, as we are far down on the alphabet.

The SPEAKER. No objection being made, the bill is before the House for consideration.

Mr. COX, of New York. This bill is a mere matter of convenience to shippers, and there ought to be no objection to it. It involves the expenditure of no money, and simply puts sailing-vessels in the same position that steamships now occupy. Steamships have had this privilege heretofore because of the necessity of getting the mails on shore at night. This bill only extends to our sailing-vessels the same privileges that foreign steamships enjoy to-day.

Now, while bills are being brought in here from the Committee on Commerce with reference to property and to shipping, I invoke the earnest attention of that committee and of this House to the fact that bills are now pending before that committee which concern the preservation of human health and life. This House did a graceful thing last week by passing a bill, at the request of the gentleman from Wisconsin, [Mr. GUENTHER,] for the protection and safety of immigrants coming from abroad. In other words, this House has been generous as to the health and life of persons.

The bill now pending before the Committee on Commerce, and for which I invoke the earnest attention of that committee and of this House, has reference to the inspection of vessels sailing from our ports under foreign flags, which now escape inspection. While our laws command us to inspect our own vessels, vessels under the British and other flags can sail out of New York Harbor for the West India ports without being inspected; vessels which are nothing but rotten hulks, old blockade runners which have been bought up.

Mr. HAZELTON. Is that in this bill?

Mr. COX, of New York. No, sir; but I am calling attention to a matter which is more important. I again ask, in the interest of human life, as I have asked before on other occasions, that the bill providing for the inspection of these British bottoms which are allowed to take our people to the West Indies, the Bermudas, and other places shall have attention in this House. Such a bill was passed at the last session by the House, but failed to receive action in the Senate. Now let the Committee on Commerce bring in that bill, and let us do something for life as well as for property.

I have no objection to this bill, and hope that it will be passed without objection.

Mr. DINGLEY. I ask the Clerk to read the amendment which I have sent up.

The Clerk read as follows:

Strike out the first section of the bill, and insert in lieu thereof the following:

"That section 2872 of the Revised Statutes be amended by adding thereto the following:

"When a license to unload between the setting and rising of the sun is granted to a sailing-vessel under this section, a fixed, uniform and reasonable compensation may be allowed to the inspector or inspectors for services between the setting and rising of the sun under such regulations as the Secretary of the Treasury may prescribe, to be received by the collector from the master, owner, or assignee of the vessel, and to be paid by him to the inspector or inspectors.

The amendment was agreed to.

The bill as amended was then ordered to be engrossed for a third reading; and it was accordingly read the third time, and passed.

Mr. DINGLEY 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.

MINERAL CLAIMS.

Mr. CASSIDY. I ask unanimous consent that Senate bill No. 26, to amend section 2326 of the Revised Statutes, in regard to mineral lands, and for other purposes, be taken from the Speaker's table and considered at this time. It is the same bill which I asked unanimous consent the other day to call up, and it was then objected to. I have since explained to the gentleman making the objection the object of the bill, and he does not now object.

Mr. HOLMAN. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That the adverse claim required by section 2326 of the Revised Statutes may be verified by the oath of any duly authorized agent or attorney-in-fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory.

SEC. 2. That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record or before any notary public of any State or Territory.

There being no objection, the bill was taken from the Speaker's table, read three several times, and passed.

Mr. CASSIDY 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.

Mr. MARSH. I ask unanimous consent——

Mr. MILLS. I ask unanimous consent that the roll of members be now called in alphabetical order, and that each member as called be allowed to present one proposition for consideration.

The SPEAKER. Is there objection?

Mr. ROBESON. I object.

Mr. MILLS. Then I call for the regular order.

The SPEAKER. The gentleman from Illinois [Mr. ALDRICH] was necessarily absent from the House on Monday last on business of the House when the States were called for the introduction of bills and joint resolutions for reference. He asks now consent to introduce a bill and a joint resolution. Is there objection? [After a pause.] The Chair hears none.

CHARLES G. EDDY.

Mr. ALDRICH, by unanimous consent, introduced a bill (H. R. No. 5904) for the relief of Charles G. Eddy; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENRY WALKE.

Mr. ALDRICH also, by unanimous consent, introduced a joint resolution (H. R. No. 198) tendering the thanks of Congress to Rear-Admiral Henry Walke and the officers and men under his command on the United States steamer Carondelet on April 5, 1862; which was

read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. MARSH. I hope the gentleman from Texas [Mr. MILLS] will withdraw his demand for the regular order.

Mr. CALKINS. I desire to state to the House, having given notice yesterday that I would to-day call up a contested-election case, that for certain reasons I do not now propose to call up any such case either to-day or to-morrow. I desire, however, to give notice that at the earliest possible moment next week I will call up the first contested-election case on the Calendar and try to have it considered by the House. I give this notice that members may be prepared to consider the case when called up.

Mr. BOWMAN. I move to dispense with the morning hour for the call of committees.

The motion was not agreed to; there being ayes 67, noes 46—less than two-thirds voting in the affirmative.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriation for public printing and binding for the fiscal year ending June 30, 1882.

The SPEAKER. If there be no objection, the Chair will at this time lay before the House several executive communications.

There was no objection.

FORT MAGINNIS POST.

The SPEAKER laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committeee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a letter from the Secretary of War, of the 18th instant, inclosing plans and estimates for the completion of the post of Fort Maginnis, Montana Territory, and recommending an appropriation for the purpose of $25,000, as called for by the estimates.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 20, 1882.

RELATIONS WITH MEXICO.

The SPEAKER also laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a note addressed by the minister plenipotentiary of Mexico to the Secretary of State, proposing the conclusion of a convention between the two countries for defining the boundary between the United States and Mexico from the Rio Grande westward to the Pacific Ocean by the erection of durable monuments. I also lay before Congress a letter on the same subject, with its accompaniment, from the Secretary of War, to whom the proposition was referred by the Secretary of State for the expression of his views thereon.

I deem it important that the boundary line between the two countries, as defined by existing treaties and already once surveyed, should be run anew and defined by suitable permanent monuments. By so doing uncertainty will be prevented as to jurisdiction in criminal and municipal affairs, and questions be averted which may at any time in the near future arise with the growth of population on the border.

Moreover, I conceive that the willing and speedy assent of the Government of the United States to the proposal thus to determine the existing stipulated boundary with permanence and precision will be in some sense an assurance to Mexico that the unauthorized suspicion which of late years seems to have gained some credence in that Republic that the United States covets and seeks to annex neighboring territory is without foundation. That which the United States seeks, and which the definite settlement of the boundary in the proposed manner will promote, is a confiding and friendly feeling between the two nations leading to advantageous commerce and closer commercial relations.

I have to suggest that, in accepting this proposal, suitable provision be made for an adequate military force on the frontier to protect the surveying parties from hostile Indians. The troops so employed will at the same time protect the settlers on the border and help to prevent marauding on both sides by the nomadic Indians.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 18, 1882.

LIGHTS ON BRIDGES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Light-House Board recommending that House bill providing for the extensions of the operations of the board be amended so as to provide for the maintenance of lights on bridges by the owners thereof; which was referred to the Committee on Commerce, and ordered to be printed.

INVESTIGATION OF CLAIMS BY QUARTERMASTER-GENERAL.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a statement in response to House resolution of April 14, 1882, relative to agents of the Quartermaster-General's Department now employed in the investigation of claims under the act of July 4, 1864; which was referred to the Committee on Expenditures in the War Department, and ordered to be printed.

GOVERNMENT DRY-DOCK AT DES MOINES RAPIDS CANAL.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting report of Captain A. Mackenzie, Corps of Engineers, in response to House resolution of March 30, 1882, calling for information concerning the building of a Government dry-dock at the Des Moines Rapids Canal, on the Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. COBB, by unanimous consent, obtained indefinite leave of absence on account of sickness in his family.

WITHDRAWAL OF PAPERS.

Mr. PAUL, by unanimous consent, obtained leave for the withdrawal from the files of the petition of J. M. Dutrow.

BRIDGE ACROSS MISSISSIPPI RIVER, KEITHSBURGH, ILLINOIS.

The SPEAKER. The Chair is informed that the gentleman from Texas [Mr. MILLS] withdraws his call for the regular order as against the application of the gentleman from Illinois, [Mr. MARSH,] who desires concurrence in Senate amendments to a House bill.

Mr. MARSH. I ask unanimous consent to have taken from the Speaker's table, for concurrence in the amendments of the Senate, the bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

There being no objection, the House proceeded to the consideration of the amendments of the Senate; which were read, as follows:

On page 4 insert, in line 20, after the word "changed," the words "or removed."

After the words "United States," in line 27, strike out the following: "That the said Mercer County Bridge Company, or the said Keithsburgh Company, whichever of them shall construct said bridge, may execute a mortgage or mortgages thereon, and issue bonds, payable, principal and interest, in gold, the payment of which shall be secured by said mortgage."

The amendments were concurred in.

Mr. MARSH moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTIONS IN WEST VIRGINIA.

Mr. KENNA. I ask unanimous consent to have taken from the House Calendar for present consideration the bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia. This bill provides for the election of Representatives to the next Congress; and if the matter is understood, I am sure there will be no objection. Under the law as it now stands we must have two elections in West Virginia the coming fall, a State election in October and an election of Congressmen in November. This bill proposes simply to avoid the expense of two elections.

The SPEAKER. The bill will be read, the right to object being reserved.

The Clerk read as follows:

Be it enacted, &c., That on the second Tuesday of October, 1882, there shall be elected in each Congressional district in the State of West Virginia one Representative to represent said State of West Virginia in the Forty-eighth Congress.

SEC. 2. That said election shall be conducted according to the laws now in force, except so far as the same relate to and fix the time of such election.

There being no objection, the bill was taken from the House Calendar, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KENNA 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.

CLERK OF COMMITTEE ON INDIAN AFFAIRS.

Mr. HASKELL, by unanimous consent, reported from the Committee on Indian Affairs the following resolution; which was referred to the Committee on Accounts:

Resolved, That the Committee on Appropriations be, and are hereby, respectfully requested to make provision in the legislative, executive, and judicial appropriation bill for the ensuing fiscal year, for the clerk of the Committee on Indian Affairs as one of the "annual committee clerks" provided for in said bill.

FLORIDA CONTESTED-ELECTION CASE.

Mr. BELTZHOOVER. Mr. Speaker, I present the views of the minority of the Committee on Elections in the Florida contested-election case of Bisbee against Finley, and ask that they be printed with the majority report for the information of the House.

The SPEAKER. The request will be granted. It is the gentleman's right.

It was ordered accordingly.

ORDER OF BUSINESS.

Mr. DUNNELL. Mr. Speaker, the regular order was called for some time ago.

The SPEAKER. These are privileged matters.

TREATY WITH SPAIN, ETC.

Mr. WILLIAMS, of Wisconsin. Mr. Speaker, I am directed by the Committee on Foreign Affairs to offer the following resolution.

The Clerk read as follows:

Resolved, That the Committee on Foreign Affairs be authorized to have printed certain correspondence relating to the treaty of 1819 with Spain; also correspondence as to the payment of consular fees, for the use of Congress.

Mr. HOLMAN. That goes to the Committee on Printing.

The SPEAKER. This is a matter of printing for the use of the committee.

Mr. HOLMAN. It should go to the Committee on Printing.

Mr. WILLIAMS, of Wisconsin. I have submitted it to the Printing Committee. The matter is before our committee and is mere incidental printing for the use of the committee. The gentleman from Illinois [Mr. SPRINGER] informed me that he would have no objection to it, and the business of the committee is being somewhat delayed for want of this correspondence.

Mr. HOLMAN. I do not object, but I think it should go to the Committee on Printing.

The resolution was adopted.

Mr. WILLIAMS, of Wisconsin, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXCHANGE OF OFFICIAL DOCUMENTS.

Mr. KASSON. Mr. Speaker, a communication was referred to the Committee on Foreign Affairs from the president of the Chamber of Deputies of France in regard to an exchange of official documents, and I am directed to report it back as action is not required further than an acknowledgment by the proper officer of the House of the receipt of the documents. Let it be laid upon the table.

The SPEAKER. The communication will be laid upon the table in accordance with the report of the committee.

It was accordingly laid on the table.

CALL OF COMMITTEES.

The SPEAKER. The regular order being called for, this being Friday, committees will be called for reports of a private nature.

JANE MULLIGAN.

Mr. DUNNELL, from the Committee on Foreign Affairs, reported back adversely the petition of Jane Mulligan; which was laid on the table, and the accompanying report ordered to be printed.

NEZ PERCÉ WAR.

Mr. UPSON, from the Committee on Military Affairs, reported, as a substitute for House bills Nos. 1910, 1937, and 2577, a bill (H. R. No. 5905) for the relief of citizens of the State of Oregon and of Idaho and Washington Territories who served with the United States troops in the war with the Nez Percé and Bannock Indians, and for the relief of the heirs of such as were killed in such service; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ROBERT PEYSERT.

Mr. LACEY, from the Committee on the Post-Office and Post-Roads, reported back adversely the bill (H. R. No. 3083) for the relief of Robert Peysert; which was laid on the table, and the accompanying report ordered to be printed.

CHARLES F. PARIS.

Mr. MATSON, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 4268) granting a pension to Charles F. Paris; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ELECTA L. BALDWIN.

Mr. MATSON also, from the same committee, reported back the bill (H. R. No. 2104) granting a pension to Mrs. Electa L. Baldwin; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JAMES E. GOTT.

Mr. DAWES, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 627) to increase the pension of James E. Gott; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ELIZA J. YARNELL.

Mr. DAWES also, from the same committee, reported back adversely the bill (H. R. No. 4535) granting an increase of pension to Eliza J. Yarnell; which was referred, at the request of a member, to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

NANCY LEONARD.

Mr. DAWES also, from the same committee, reported back adversely the bill (H. R. No. 5087) restoring to the pension-roll the name of Nancy Leonard; which was laid on the table, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. WADSWORTH, from the Committee on Invalid Pensions, reported back adversely the following bills; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 1124) granting a pension to Leonard Weber; and

A bill (H. R. No. 1168) granting a pension to Philip J. Widtmeyer.

EDWARD FARR.

Mr. WADSWORTH also, from the same committee, reported back a bill (H. R. No. 1154) granting a pension to Edward Farr; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HUGO EICHHOLTZ.

Mr. WADSWORTH also, from the same committee, reported back the bill (H. R. No. 5820) granting a pension to Hugo Eichholtz; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

EARL S. RATHBUN.

Mr. JOYCE, from the Committee on Invalid Pensions, reported back the bill (S. No. 891) granting a pension to Earl S. Rathbun; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM R. PERDUE.

Mr. JOYCE also, from the same committee, reported back the bill (H. R. No. 1468) granting a pension to William R. Perdue; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

BILLS ALREADY PASSED.

Mr. JOYCE also, from the same committee, moved it be discharged from the further consideration of the following bills, pensions having been granted at the Pension Office:

A bill (H. R. No. 1542) granting a pension to George Taylor; and

A bill (H. R. No. 1546) granting a pension to Andrew J. Horton.

The motion was agreed to, and the bills were laid upon the table.

JOHN TAYLOR.

Mr. WADSWORTH. Mr. Speaker, I ask unanimous consent, inasmuch as the call of committees has been concluded, to make a report from the Committee on Invalid Pensions. A bill has passed the House and gone to the Senate for the relief of John Taylor. The Senate has passed a similar bill, and I ask unanimous consent that the Senate bill be taken from the Speaker's table and passed.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (S. No. 632) granting a pension to John Taylor.

Mr. SPRINGER. Let the bill be read.

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 John Taylor, late of Battery M, Third New York Light Artillery, and pay him a pension at the rate of $12 per month, in lieu of the pension he is now receiving, from and after the passage of this act.

The SPEAKER. Is there objection to the present consideration of the Senate bill?

There was no objection.

The bill was taken from the Speaker's table, read by its title a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WADSWORTH 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.

Mr. BOWMAN. I move to dispense with the regular order, which is the consideration in Committee of the Whole of the Private Calendar, and give notice to the House that my object in doing so is to call up for immediate consideration the special assignment, being the bill for the reference of private claims to the Court of Claims, and therefore is a very appropriate subject for consideration on private bill day instead of the Private Calendar.

Mr. HAZELTON. We have only one day in the week which we devote to the consideration of the Private Calendar, and there are certain bills now confronting the House that can never fall under the provisions of the bill to which he refers. I hope this day will be devoted to the legitimate purposes of the Private Calendar and not be permitted to be devoted to other purposes, as we have done on the last two or three Fridays.

The SPEAKER. The gentleman from Massachusetts moves to dispense with the order of business for to-day. That requires a two-thirds vote.

Mr. BOWMAN. I would make a parliamentary inquiry, whether it is in order for me, instead of making that motion, to call up for consideration the special assignment, and whether that will not take precedence under the rules of the regular order of business for to-day?

The SPEAKER. Under Rule XXVI it requires a two-thirds vote to dispense with private business on Friday. But the Chair will state to the gentleman from Massachusetts that a special order, if made for to-day, or a continuing order which comes over from day to day, might properly be called up on this day.

Mr. BOWMAN. Then I call up the special order.

The SPEAKER. If the motion to go into the Committee of the Whole House on the Private Calendar is voted down, then the special order will be before the House.

Mr. HAZELTON. But the consideration of the Private Calendar is the regular order.

The SPEAKER. The regular order is the consideration in Committee of the Whole of the Private Calender, but that business can be dispensed with by a two-thirds vote.

Mr. SPRINGER. The gentleman from Massachusetts can reach his purpose in another way. If he will move to go into Committee of the Whole on the Private Calendar, a majority may vote that motion down; and when it is voted down public business will be in order. The House may then by a majority vote proceed to consider the special order.

Mr. HOUSE. If a motion is made to go into Committee of the Whole on the Private Calendar, cannot a majority determine it?

The SPEAKER. The majority can do so; but the Chair will state that if there is private business not requiring consideration in the Committee of the Whole and any gentleman desires to call it up, it would still be in order to-day under the rule in preference to any other business. Private business on the Speaker's table might be in order if the House desired to go there.

Mr. ROBESON. I desire to make a parliamentary statement. Of course the regular order cannot be set aside on any day except by a two-thirds vote. That is true, but it is every day, when a member can get a hearing, set aside by a two-thirds vote. Now this proposition by the gentleman from Massachusetts has already had its hearing and has set aside the regular order by a two-thirds vote or by unanimous consent at the time when a special day was assigned for its consideration, with the right to continue from day to day; and that special day, with its continuation, runs over the regular order and can never be antagonized except by some other order which has a higher privilege. Therefore I say that a two-thirds vote setting aside the regular order of this day and the regular order of any other day has been already had on the motion of the gentleman from Massachusetts and its adoption when his special order was made; so it is clear that that special order or assignment made by a two-thirds vote or by a unanimous vote has the right to all the common time of this House, when higher privileges do not intervene, until it is disposed of.

The SPEAKER. The gentleman from Massachusetts moves to dispense with private business on this day.

Mr. BOWMAN. I withdraw that motion, and move that the special assignment, being the bill providing for the reference of certain claims to the Court of Claims, be taken up. That is the special order, and I call for the special order.

The SPEAKER. The Clerk will read the special order assigning the business to which the gentleman from Massachusetts refers.

The Clerk read as follows:

Resolved, That the bill (H. R. No. 684) to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government be taken from the House Calendar and made the special order for Tuesday, March 7, after the morning hour, and from day to day thereafter until disposed of, not to antagonize general appropriation and revenue bills; and that all amendments to the bill be in order without regard to clause 4, Rule XXI.

Mr. HAZELTON. Now I desire to raise the question of consideration, and I suppose I can do it by making a motion to go into Committee of the Whole on the Private Calendar.

The SPEAKER. The gentleman can raise the question of consideration by simply stating it. The question is, Will the House proceed to the consideration of the special order named by the gentleman from Massachusetts?

Mr. SPARKS. As I understand, the motion of the gentleman from Massachusetts would be subject to the point of order which I propose to make. This is Friday, and the rules provide that bills upon the Private Calendar shall be considered to-day. That can only be dispensed with by a two-thirds vote, because in doing so you change a rule specifically. Now, the gentleman from Massachusetts makes the motion, this being Friday, to take up a particular bill. He can only do that by first dispensing with the regular order, which is the Private Calendar.

Mr. BOWMAN. It was dispensed with when this special assignment was made.

Mr. ROBESON. I desire to reply to the gentleman from Illinois, [Mr. SPARKS.] Of course private bills are the regular order on Friday, just as ordinary public business is the regular order on other days. But they are the regular order under the rules, and this special assignment has suspended the rules for the purpose of having this bill considered. That has been done by a two-thirds vote, which has made it the regular order for to-day by a two-thirds vote already passed——

Mr. HAZELTON. I would like to see the record of that.

Mr. ROBESON. Or by unanimous consent. The regular order on Friday is private business; but it is no more the regular order on Friday than public business is the regular order on Thursday. And if this bill would come up on Thursday because the rules are suspended against the regular order, then it will come up on Friday because the rules are suspended against the regular order.

Mr. MILLS. Would it come up on Monday also, against the regular order?

Mr. ROBESON. Undoubtedly.

Mr. MILLS. And we would never have any day for introducing bills.

Mr. SPARKS. This question was raised once in a case like this when a bill was set for Friday, and the Speaker ruled on that occasion that the regular order had to be dispensed with even before you could take up a bill set for a special Friday. Now, this bill was set for to-day.

The SPEAKER. That was a different case, as the Chair thinks, if any decision of that kind was made.

Mr. SPARKS. Precisely. It was a stronger case. This bill was not set for to-day but was set for Tuesday. The gentleman from New Jersey insists that as that bill has been set for a particular day, the orders running from day to day, that dispenses with the order of to-day. That will not do under the rule. You must dispense with the consideration of the Private Calendar before you can take up any special order set for any other day, or even for this day.

Mr. ANDERSON. This order dispenses with the regular order on Friday; because while the consideration of the bill was set for a given day, say Tuesday, the order was continuous. Under the order which was adopted by unanimous consent it was to continue Wednesday, Thursday, Friday, Saturday, and until disposed of.

Mr. HAZELTON. If I understand the facts, this special order was assigned for Tuesday and was made a continuing order. Am I right about that?

The SPEAKER. The gentleman is right about that.

Mr. HAZELTON. Now, Rule XXVI says:

Friday in every week shall be set apart for the consideration of private business, unless otherwise determined by a two-thirds vote of the members present and voting.

The very purpose of this rule was that one day in the week, to wit, Friday, should be secured to this House for the consideration of the Private Calendar; and private business can never be set aside without destroying the intent and efficiency of the rule, except when the House determines by a two-thirds vote that that shall be done. As I understand, we have no record that this bill was ever made a special order by any two-thirds vote. The assignment was made originally for a Tuesday. Now it comes over here and these gentlemen confront and strike down this absolute rule which gives us Friday for private business except against a two-thirds vote—strike that down and take away this high privilege under the rule. I say, Mr. Speaker, I defy the gentleman from New Jersey to find an instance or a precedent that will sustain him in striking down this rule in this way.

Mr. BUTTERWORTH. I would like to ask the gentleman from Wisconsin a question. It was competent, was it not, to have assigned Tuesday for the consideration of the bill of the gentleman from Massachusetts by a majority vote?

Mr. HAZELTON. I suppose the House has made assignments by majority votes.

The SPEAKER. The Chair does not agree with the gentleman in that proposition.

Mr. BOWMAN addressed the Chair.

The SPEAKER. The Chair is ready to dispose of this question. The gentleman from Massachusetts [Mr. BOWMAN] proposes to call up a special order fixed by a suspension of the rules on February 20 last. This order was made for March 7, and to continue from day to day until disposed of. The Chair has in no instance entertained a motion to fix a day for the special consideration of a bill except when it was done by unanimous consent or under a suspension of the rules. The resolution making this special order, although it named a Tuesday as the day on which the bill might be called up, was a continuing order, and leaves the bill in the same position to-day as though it had been originally assigned by the order of the House for consideration on this day. It is quite true that as against ordinary business under the rules, Rule XXVI gives the prior right to private business over other ordinary business except in cases where it is dispensed with by a two-thirds vote. But the House having made a special order, which is continuing from day to day without any exception save as against general appropriation and revenue bills, the Chair feels bound to hold that this bill may be called up to-day by the gentleman from Massachusetts. But of course, like all other business before the House on any day, it may be antagonized by whatever is proper to be considered. [Mr. HAZELTON rose.] And the gentleman from Wisconsin, the Chair understands, raises the question of consideration.

Mr. HAZELTON. I do.

The SPEAKER. The Chair will further state that this order having been made under a suspension of the rules, such suspension included Rule XXVI and all others.

Mr. HAZELTON. The question of consideration is decided by a majority vote.

The SPEAKER. Unquestionably; the House always has the right to refuse to proceed to consider any business that may otherwise be in order.

Mr. ROBINSON, of Massachusetts. I have no doubt of the correctness of the ruling of the Chair, but I desire to call attention for future practice to the fact that such ruling will operate of course to set aside even the call of States on Monday.

The SPEAKER. The Chair does not decide that point now.

Mr. ROBINSON, of Massachusetts. I do not ask the Chair to decide it; I only call attention to it so that when any request for such purpose shall be made hereafter the House may understand the effect of it.

The SPEAKER. It is well for the House to understand the oper-

ation of its rules and orders, but the decision just made does not necessarily decide that question. The question now is, Will the House now proceed to consider the special order?

The question was taken; and it was agreed to upon a division—ayes 94, noes 55.

REFERENCE OF CLAIMS TO THE COURT OF CLAIMS.

The SPEAKER. The House will now proceed to the consideration of the bill which has been made the special order, and which will now be read.

The bill was read, as follows:

A bill (H. R. No. 684) to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government.

Be it enacted, &c., That whenever a claim or matter is pending before any committee of the Senate or House of Representatives, or before either House of Congress, which involves the investigation and determination of facts, the committee or House may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims of the United States, and the same shall there be proceeded in under such rules as the court may adopt. When the facts shall have been found, the court shall not enter judgment thereon, but shall report the same to the committee or to the House by which the case was transmitted for its consideration.

SEC. 2. That when a claim or matter is pending in any of the Executive Departments which may involve controverted questions of fact or law, the head of such Department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the Department by which it was transmitted for its guidance and action.

SEC. 3. That the Attorney-General, or his assistants under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be transmitted to the Court of Claims under this act, with the same power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses in like manner as he is now required to defend the United States in said court.

SEC. 4. That in the trial of such cases no person shall be excluded as a witness because he or she is a party to or interested in the same.

SEC. 5. That reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress until the same shall be finally acted upon.

Mr. HOLMAN. I desire to suggest that some arrangement be made by which amendments may now be offered so that members can address themselves to the whole subject.

Mr. BOWMAN. I understand that the gentleman from Tennessee [Mr. HOUSE] has a substitute bill, and the gentleman from Indiana [Mr. HOLMAN] has an amendment to the original bill to offer. I have no objection to those two amendments coming in now, so that they may be considered together with the bill.

Mr. UPDEGRAFF, of Iowa. I desire to offer a substitute.

Mr. HOUSE. I desire to offer my amendment as a substitute both for the original bill and the amendment of the gentleman from Indiana, [Mr. HOLMAN.]

The SPEAKER. The question upon the substitute cannot be taken until after the amendments to the original bill have been disposed of.

Mr. HOLMAN. I offer an amendment to come in after the first section of the bill.

The amendment was read, as follows:

In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores did not give aid or comfort to said rebellion, and was throughout that war loyal to the Government of the United States; and the fact of such loyalty shall be a jurisdictional fact, and the said court shall first inquire into such fact, and unless it shall be shown to the satisfaction of the court and found by the court, on such preliminary inquiry, that the person who furnished such supplies was throughout said war loyal to the Government of the United States, shall without further proceedings be dismissed. But said court shall not have jurisdiction of any case for the destruction of or damages to property or for the rent or occupation of property used and occupied by the Army during said war in the actual military operations of the Army at the seat of war.

The SPEAKER. The Chair will inquire of the gentleman from Massachusetts [Mr. BOWMAN] whether it is his purpose now to allow the presentation of amendments and substitutes regardless of their order, in order that they may be pending? The gentleman from Iowa [Mr. UPDEGRAFF] desires to offer a substitute.

Mr. BOWMAN. In order to prevent this bill getting into a state of confusion and complication, I do not want to consent to any more amendments being offered at present than the two to which I have referred. It is my desire that other amendments shall be offered when the time comes for amendments in general. The amendment of the gentleman from Tennessee [Mr. HOUSE] is a sleeping amendment, a substitute bill, going to the very merits of the case. I therefore thought it proper that that should come in, in order that we might not have a double discussion, one now and another afterward on that substitute.

The SPEAKER. The substitute offered by the gentleman from Tennessee [Mr. HOUSE] will now be read.

Mr. HOUSE. I do not care to have it read in full at this time.

The SPEAKER. Then it will be considered as read and pending.

The substitute is as follows:

Be it enacted, &c., That Congress shall not authorize the payment of any private claim not payable under existing laws until the facts on which such claim is based shall have been judicially established and reported as hereinafter provided.

SEC. 2. Any person having a claim or matter against the United States in respect of which he desires relief by special act of Congress, and of which the Court of Claims could not under existing laws take jurisdiction, may, before applying to Congress for such relief, file a petition in that court stating the facts and grounds on which the relief is sought, and praying the court to find the facts; and the court, under such rules as it may adopt, shall find the facts as established by the evidence, and report the same, with a copy of the petition and answer of the Government, to either House of Congress.

SEC. 3. Whenever a claim or matter is pending before any committee of the Senate or House of Representatives, or before either House of Congress, which involves the investigation and determination of facts, the committee or House may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in under such rules as the court may adopt. When the facts shall have been found, the court shall report the same to the committee or to the House by which the case was transmitted for its consideration.

SEC. 4. In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, or for the destruction of or damage to property by any part of said forces, the petition shall aver that the person who furnished such supplies or stores, or whose property was so taken, destroyed, or damaged, did not give any aid or comfort to said rebellion, but was, throughout that war, loyal to the Government of the United States; which averment shall be investigated, and the facts in relation thereto found and reported by said court.

SEC. 5. All private claims pending in either House of Congress at the final adjournment thereof, involving an investigation or determination of facts shall, with all papers connected therewith, be transferred to the Court of Claims, to be there proceeded with in the manner hereinbefore prescribed.

SEC. 6. No private claim which accrued of the character described in section 2 of this act, prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims, or considered by Congress, or any of the Executive Departments. All other such claims now existing shall be presented to that court, in the manner and for the purpose aforesaid, within two years after the passage of this act, and all claims hereafter accruing shall be so presented within six years after they accrue, in default whereof, in either of said cases, the claims shall be barred: *Provided*, That the claims of married women, which first accrued during their marriage, and of infants, idiots, insane persons, and persons beyond the seas when the claim accrued, entitled to the claim, shall not be barred if the petition be filed in the court as aforesaid within two years after the disability has ceased; but no other disabilities than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

SEC. 7. Whenever there shall be pending before the Department of State a claim in behalf of any alien against the United States, founded on or growing out of any treaty with a foreign power or any international obligation, the Secretary of State may, with the consent of the representative of the government of such alien, refer such claim to the Court of Claims; which shall thereupon have jurisdiction to hear and determine the same upon the principles of justice and international law, and to render such judgment as those principles shall require. From any such judgment, when the amount in controversy is $3,000 or more, either party may appeal to the Supreme Court in the manner provided by law in other cases of appeal from the Court of Claims.

SEC. 8. When a claim or matter is pending in any of the Executive Departments which involves controverted questions of fact or law, the head of such Department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the Department by which it was transmitted.

SEC. 9. The Attorney-General, or his assistants under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be brought in the Court of Claims under this act, with power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses, as fully as he is now required or authorized to do in other cases in said court.

SEC. 10. In the trial of such cases no person shall be excluded as a witness because he is a party to or interested in the same; and any claimant or party in interest may be examined as a witness on the part of the Government, and when refusing so to testify, or willfully testifying falsely, shall not be entitled to relief.

SEC. 11. If it shall appear to the court that in any case referred to it under the provisions of this act testimony has been duly taken by either party, the same, so far as relevant and competent, may be used, subject to such rules as the court may see fit to adopt.

SEC. 12. In every case which shall come before the Court of Claims under the provisions of this act, if it shall appear to said court upon the facts established that it has jurisdiction to render judgment thereon under existing laws, it shall proceed to do so, and report its proceedings therein to either House of Congress, or to the Department by which the same was referred to said court.

SEC. 13. Reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress until the same shall be finally acted upon.

Mr. THOMPSON, of Kentucky. I desire to ask the gentleman who has charge of this bill whether or not it is intended to call the previous question and cut off amendments, or will he allow the bill to be considered in the House as in Committee of the Whole and permit amendments to be offered and discussed under the five-minute rule?

The SPEAKER. The Chair will state that the order of the House making this a special order provides for the introduction of amendments without reference to clause 4 of Rule XXI. How far the gentleman may be willing to extend the matter of amendments before calling the previous question the Chair cannot say.

Mr. UPDEGRAFF, of Iowa. Under that order I desire to offer a substitute for the bill and amendments.

The SPEAKER. That would be in order only after disposing of the pending substitute.

Mr. UPDEGRAFF, of Iowa. I thought that Rule XXI did not apply.

The SPEAKER. That relates only to points of order.

Mr. ROBINSON, of Massachusetts. I infer that my colleague, recognizing the importance of this measure, does not expect to have a final vote on the proposition to-day. I therefore suggest that the different propositions to amend may be printed in the RECORD. I do not care about their being offered now, because that would trespass upon the matter of parliamentary practice, but they can be printed for information in the RECORD. This is a complex matter; we want to proceed safely; and I hope that, without any rights being waived, the House may give consent that gentlemen may send

up their amendments to be printed, so that we may see them in the morning.

The SPEAKER. The gentleman from Massachusetts [Mr. ROBINSON] asks unanimous consent for the printing in the RECORD of such amendments as gentlemen may propose to offer. Is there objection? The Chair hears none. The gentleman from Iowa [Mr. UPDEGRAFF] proposes an amendment——

Mr. UPDEGRAFF, of Iowa. In the nature of a substitute.

The SPEAKER. Which will, under the order, be printed in the RECORD.

The substitute of Mr. UPDEGRAFF, of Iowa, is as follows:

A bill to afford assistance and relief to Congress in the investigation of claims and demands against the Government.

Be it enacted, &c., That whenever a claim or matter is pending before any committee of the Senate or House of Representatives which involves the investigation and determination of facts, the committee may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims of the United States, and the same shall there be proceeded in under such rules as the court may adopt. When the facts shall have been found, the court shall not enter judgment thereon, but shall report the same to the committee by which the case was transmitted for its consideration.

SEC. 2. The committee shall thereupon carefully examine such case and report its opinion thereon, with an appropriate bill or resolution, to the House or Senate, as the case may be; and no bill or resolution allowing any such claim shall be considered in either House until some member of such committee shall state on the floor, or in writing, signed by him and filed with the Clerk or Secretary, that he has personally examined such case and recommends its payment.

SEC. 3. That the Attorney-General, or his assistants under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be transmitted to the Court of Claims under this act, with the same power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses in like manner as he is now required to defend the United States in said court.

SEC. 4. That in the examination of such cases no person shall be excluded as a witness because he or she is a party to or interested in the same.

SEC. 5. In all cases arising before the suppression of the rebellion the court shall inquire into, ascertain, and report whether or not the claimant, or the person under whom he claims, gave any aid or comfort to the late rebellion, or was loyal throughout that war to the Government of the United States.

Mr. STOCKSLAGER. I desire to offer an amendment excepting from the provisions of this bill claims for losses incurred in Indiana and Ohio during the Morgan raid.

The SPEAKER. If the gentleman from Indiana will send up the amendment it will be printed under the order.

The amendment of Mr. STOCKSLAGER is as follows:

Amend section 4 of the substitute offered by Mr. HOUSE, from the Select Committee on Reform in the Civil Service, by adding to the end of said section the following words, to wit:

"Except claims for property taken during the Morgan raid in the States of Indiana and Ohio: *And provided*, That in said claims thus excepted it shall be the duty of the proper accounting officers of the Treasury Department, and they are hereby authorized and directed to receive, pass upon, and settle all claims for property taken and used by the Union forces engaged in opposing or pursuing the rebel forces under General John Morgan while making his raid into the States of Indiana and Ohio, in July, 1863; and said accounting officers are also directed to receive, settle, and pay for all horses taken from citizens of said States by said rebel forces which were afterwards captured, retained, and used by the Union Army; and an appropriation is hereby made, out of any money in the Treasury not otherwise appropriated, to pay the same: *And provided further*, That the said accounting officers of the Treasury shall take and accept as sufficient proof, in all claims so disposed of, the adjudications made by the commissions appointed by said States, respectively, together with the accompanying proofs, which claims, adjudications, and proofs were filed in the offices of the adjutant-generals of said States, respectively: *Provided*, That all claims not so adjudicated upon may be established as other claims and demands against the United States are now established: *And provided further*, That upon the finding of said respective commissions, or other sufficient proof of the taking of horses or mules by the said rebel forces, their capture, retention, and use by the Union Army shall be presumed and admitted by said accounting officers, and adjudication and settlement made for the same in the same manner as if said property had been originally taken by the Union forces: *And provided further*, That the Quartermaster-General is hereby directed, upon the request of claimants or their attorneys, to turn over to the proper accounting officers of the Treasury all claims heretofore filed in his office for property taken from citizens of the States of Indiana and Ohio during the said Morgan raid."

Mr. HOUSE. I wish to make a suggestion. The gentleman from Massachusetts [Mr. BOWMAN] has reported a bill from the Committee on Claims. The bill which I offer as a substitute includes several of the sections of the bill of the gentleman from Massachusetts.

A MEMBER. All of them.

Mr. HOUSE. All of them, I believe. The bill I offer as a substitute is reported from the Committee on Civil Service Reform, and includes a good deal which is not embraced in the bill of the gentleman from Massachusetts. Now, I suggest that the adoption or rejection of my substitute will determine the extent to which the House proposes to go in referring these claims to the Court of Claims. I think that a certain period might be allowed for general debate, and then the bill be considered by sections in the House as in Committee of the Whole, allowing such amendments to be offered as any gentleman may propose.

The SPEAKER. That proposition can be agreed to by unanimous consent.

Mr. HOUSE. I merely suggest it.

Mr. BOWMAN. I give notice that it is my intention to close this debate to-morrow, if I can, by moving the previous question. I have no objection to amendments coming in and being voted upon at any time, consistently with closing up the subject to-morrow, unless I find that the House is in favor of a further extension of the debate.

Mr. KASSON. If it were possible to close the general debate to-day, and allow the five-minute debate to-morrow in connection with amendments, I believe it would better suit the feeling of the House. There are many of us who have no desire to make speeches, but would like to address the House for five minutes on amendments. I should like to offer and explain an amendment, but I do not care to make a speech.

Mr. BOWMAN. Suppose that the general debate be closed to-morrow at two o'clock, leaving the residue of the day for the offering of amendments and for the five-minute debate. Will that be satisfactory?

The SPEAKER. The Chair is ready to submit that request.

Mr. HOUK. We want more than one day's debate on this bill.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the general debate on this bill may be closed at two o'clock to-morrow, and that the bill be then considered by sections as in Committee of the Whole, under the five-minute rule. Is there objection?

Mr. BRAGG and Mr. HOUK objected.

Mr. HUBBELL. It occurs to me that a session could be held this evening and general debate on the bill closed to-day, so that to-morrow we could take up the bill under the five-minute rule.

Mr. CANNON. That is right.

Mr. BOWMAN. If gentlemen want to come here this evening for debate only, and have their speeches go into the RECORD, I have no objection.

The SPEAKER. There is a special order for this evening.

Mr. BRAGG. I hope that a measure of this kind, so general and sweeping in its purposes, which may be so dangerous to the public Treasury, as well as obnoxious to the sentiment prevailing in some portions of this country, may not be put through here under whip and spur, without full opportunity for members to examine and discuss it—not to empty benches, but in a full session of the House. This bill proposes to take all claims of every nature and transfer them to the Court of Claims, subject to the determination of that court. Heretofore, in accordance with the sentiment of the people of the United States, as expressed through their representatives in Congressional acts, there has been a restriction upon the claims which could be considered; and if claims are now to be taken from the consideration of the legislative body and sent to the courts I think that the whole subject should be discussed and carefully considered, so as to insure us against making a great mistake, which, after its commission, it may be too late to remedy.

I desire also to offer a substitute for this bill. It is the bill prepared by the Senator from Vermont, [Mr. EDMUNDS,] which excludes war claims from consideration, fixes a short limitation as to the bringing of actions, and provides for their trial in the courts of the district in which the cause of action may have arisen.

The substitute of Mr. BRAGG is as follows:

A bill to provide for the bringing of suits by citizens of the United States against the Government thereof in certain cases.

Be it enacted, &c., That any citizen of the United States making a claim against the United States which has become complete within four years next before the passage of this act, or which shall have become complete subsequent to that period, in respect of which he would, under similar circumstances, be entitled to redress against another citizen either in a court of law, equity, or admiralty, may, except in the cases named at the end of this section, apply to the Department of Justice for leave to sue the United States for the enforcement of such claim. Such application shall be by petition in writing, signed either by the petitioner or his lawful attorney duly appointed by instrument in writing, setting forth the full name, usual place of abode, and citizenship of the claimant, and the nature and amount of such claim and the circumstances under which it arose, which petition shall be verified by affidavit. But nothing in this section or in this act shall authorize any such petition or suit for or in respect of any injury to or seizure of person or property, real or personal, or the detention or conversion of the same, or any damages in respect thereof, suffered, done, or committed by or under the authority of the United States, or any Department or officer of the Government thereof, during the late rebellion.

SEC. 2. That on receiving such petition the head of the Department of Justice shall cause the same, with the power of attorney, if there be one, to be recorded, and shall examine the same as soon as may be, and shall grant the same unless he shall be of opinion that such claim is frivolous or has already been passed upon by the two Houses of Congress, or by the Court of Claims, or by some court of justice. If he grant or refuse the leave, he shall make an indorsement accordingly on the petition and sign the same, and deliver the petition back to the petitioner or his attorney, and cause a memorandum of his action to be made at the foot of the record of the petition.

SEC. 3. That if leave to sue be granted as aforesaid, the petitioner may bring a suit, as he shall be advised, in the circuit court of the district in which he resides, and if there be no circuit court in such district, in the district court of the same or in the supreme court of the Territory in which he resides, or if he resides in the Indian country, in the circuit court of any district adjoining the Indian country, or if he resides in any other part of the United States in which there is no circuit or district court, or resides out of the United States, in any circuit court, against the United States for the enforcement of the claim stated in such petition, and he shall file in the clerk's office of such court the before-mentioned petition for leave to sue. He shall give reasonable security, to the satisfaction of a justice or judge of such court, for costs, in case he shall fail in his suit.

SEC. 4. That notice of the commencement of any such suit shall be served on the United States by the marshal of the district in which it is commenced, by leaving a copy of the petition for leave to sue, with its indorsements, and of the declaration, bill, or other pleading, as the case may be, together with a summons to appear at the next regular term of such court, with the district attorney of the United States of the district in which the suit is commenced, which service shall not be less than thirty days before such term.

SEC. 5. That it shall be the duty of any district attorney upon whom such service shall be made to report forthwith to the head of the Department of Justice the fact of the commencement of such suit, and he shall appear in such suit for the United States, and, under the direction of the Department of Justice, shall defend the same; and special counsel for the United States may be employed to assist in such defense in the same manner as is now or may be hereafter provided by law in other cases.

SEC. 6. That after such service and appearance the case shall proceed as nearly as may be like other civil cases in which the United States are a party, and such court shall proceed to hear, try, and determine such case according to the principles of law and justice. In every such suit it shall be lawful for the United States to make and have the benefit of equitable defenses, set-offs, and recoupments, as well as other defenses, and to file and have the benefit of cross-bills, bills of interpleader, and every other species of negative or affirmative answer to such suit, according to the nature of the case.

SEC. 7. That interest at the rate of 6 per cent. per annum, in the nature of damages for delay, may be allowed, as in civil cases between citizens, if the plaintiff shall be found entitled to recover, from the day when payment was finally refused by the executive department of the Government of the United States having cognizance of such claims; and costs in such case may be allowed the plaintiff as in cases between citizens in the courts of the United States.

SEC. 8. That writs of error or appeals, according to the nature of the case, shall be allowed in cases brought under this act to the Supreme Court of the United States, under the same conditions and limitations as are now allowed by law in the case of appeals from the Court of Claims.

SEC. 9. That if final judgment shall be rendered against the United States in any such case the amount of such judgment shall be paid out of the Treasury of the United States, unless Congress, or either House thereof, shall by resolution direct the Secretary of the Treasury to suspend the payment thereof, in which case payment shall not be made while such resolution shall continue in force. The money necessary for such payments is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 10. That when final judgment in favor of the United States shall be rendered in any such case, costs shall be taxed against the plaintiff and collected as in the case of suits between citizens in the courts of the United States, and every such claim shall be deemed and held to be finally barred.

SEC. 11. That every claim against the United States capable of being prosecuted under this act which has become completed at the day of the passage hereof shall be deemed and held to be finally barred unless the claimant shall present his petition for leave to sue the same, as provided in this act, within three years next after the passage hereof; and every other claim capable of being prosecuted under this act shall be deemed and held to be finally barred unless the claimant shall present his petition for leave to sue the same, as provided in this act, within four years next after the right to so petition shall accrue.

SEC. 12. That the Supreme Court of the United States shall make all such general rules and regulations relating to procedure in cases provided for in this act as may be necessary from time to time to carry its provisions into effect; and the courts of the United States having jurisdiction of cases under this act shall also have power to make such rules and regulations, not inconsistent with any rules and regulations established by the Supreme Court, or with this act, as may be necessary to the ends of justice in the premises.

The SPEAKER. The amendment of the gentleman from Wisconsin may be printed under the general order on the subject. The pending question is to determine the limit of general debate.

Mr. REED. I suggest to the gentleman from Wisconsin we shall be likely to have a better attendance if the debate be comparatively a short one. If we allow it to drag day by day then we shall have empty benches. If we close it up in two days we shall have members present and intelligent action on this matter.

The SPEAKER. The Chair will again submit the proposition.

Mr. HUBBELL. We want to close general debate to-day.

The SPEAKER. The Chair will again submit the proposition, which is, by unanimous consent general debate be closed to-morrow at two o'clock, and that then the bill shall be considered as in Committee of the Whole House on the state of the Union under the five-minute rule. Is there objection?

Mr. CANNON. I object. I desire general debate to be closed to-day.

Mr. BOWMAN. I ask that general debate be closed to-day at or before six o'clock.

Mr. BRAGG. I object to that.

Mr. CANNON. Say twelve o'clock to-morrow.

Mr. BURROWS, of Michigan. That will give an hour to-morrow for debate.

Mr. BOWMAN. I will agree to one o'clock to-morrow.

Mr. BRAGG. I will object to that. We must spend an hour in the morning on miscellaneous business.

Mr. HOLMAN. Say two o'clock.

Mr. BRAGG. I object to two, but will consent to four.

Mr. BOWMAN. I give notice I will call for the previous question to-morrow at two o'clock.

Mr. BUCK. I offer the following amendment, by direction of the Committee on Indian Affairs:

Amend House bill No. 684 by adding to seventh section:

The Court of Claims is hereby vested with legal and equitable jurisdiction to try, determine, and render judgment on all unsettled or unadjusted claims against the United States of all Indian tribes or nations having treaty relations with the United States, or of individual members of such Indian tribes, or of other persons, growing out of or arising under such treaties, or any law pertaining thereto. And in all actions brought by Indian tribes or nations, or individual members of such tribes or nations, or other persons, in respect of claims growing out of or arising under treaty stipulations or laws relative thereto, the testimony of the individual members of such tribe or nation shall be competent evidence, but the same shall be received subject to such regulations as the said court may prescribe. And it shall be the duty of the Secretary of the Interior, or other officer having custody thereof, upon the order of said court, to transmit to the court the originals, or, in his discretion, certified copies of the originals, of all papers that have been filed in his Department, or any bureau or office thereof, in any case, and all proofs, affidavits, reports, exhibits, or other records or documents which have been or may be filed in his Department, or bureau or office thereof, touching or in any way affecting such case: *Provided*, That such action shall be commenced by petition either by the claimant, or by delegates or attorneys duly authorized thereto, stating the facts, and under what treaty stipulation or provision of law such Indian tribe or nation, or individual member thereof, or other person, claims to recover, and the amount of such claim: *And provided further*, That it shall be the duty of the Attorney-General to appear in behalf of the United States in all actions brought under this section, and from any judgment rendered, when the amount in controversy is $3,000 or more, either party may, within thirty days from the rendition of judgment, appeal to the Supreme Court of the United States in the manner provided by law in other cases of appeal from the Court of Claims. And when final judgments have been rendered in the Court of Claims, and not appealed from within the time prescribed in this section, or when judgment shall have been rendered in the Supreme Court, the same shall be certified by the court rendering the same to the Secretary of the Interior, who shall transmit the same, with estimates for the payment thereof, to Congress.

The SPEAKER. The gentleman from Massachusetts is recognized.

Mr. BOWMAN. Mr. Speaker, I do not propose at the present moment to discuss the need of a bill of this kind. Everybody in this House and out of this House at all familiar with this troublesome subject of private claims admits the necessity of some bill to sweep out of Congress this vast mass of business and send it to some tribunal which can treat these questions in a proper and legal manner.

The only question before us is whether or not there shall be some bill for the reference of these claims and what kind of a bill it shall be; not whether we shall accomplish this object, but how we shall accomplish it, and I assume there is not a member in this House who is not in favor of some kind of a bill to get rid of these troublesome questions of private claims, questions which block up the business of the House, which crowd our Calendar, and which come into Congress after Congress, and, except in a very few cases, never reach final determination.

I ask the attention of the House, Mr. Speaker, to this bill reported by the Committee on Claims, which I believe to be the only one at present which can be safely passed. The object in presenting this bill is a simple one. We did not try to do all that we might wish to do. Some of our committee thought that the Court of Claims should have final jurisdiction, so that we should have no trouble with these cases. This committee, in this bill, only reported that which they felt sure would pass. We tried to avoid points and objections made against previous bills, and the one upon which most of the previous bills have been shipwrecked was the objection which had always arisen of leaving matters of pure discretion to the Court of Claims.

It has always been said, and very properly, that Congress could not afford to give up this question of discretion and of pure judgment, where there was no legal measure of damages, where the damages were not liquidated, and those questions which sometimes might be regarded as almost of mere benevolence, to another tribunal; that there should rest in Congress alone this great power of the bestowal of public money, unless there was some legal measure of damages and where damages had not been liquidated by contract or otherwise.

This was the snag on which these bills, many of them, for this purpose were shipwrecked, and we desire here only to report a bill which will avoid the objections, and which can be received and meet the favorable attention of the House, leaving to members who desire a broader bill to try the temper of the House themselves, and not endanger this one, which all, I am sure, will desire to have immediately passed, so as to get relief, if possible, in this Congress.

Now, what does this bill provide? It is a simple, short, compact bill, which I find that most members of the House have not studied, and few seem to fully understand. This bill gives no jurisdiction to the Court of Claims to try cases. Gentlemen have asked me the question, and it has been discussed, I imagine, generally, whether the court shall decide certain classes of claims, and whether it shall have jurisdiction extending over those coming from particular sections, or in regard to particular subjects. I desire to state in this connection the true intent and purpose of the bill. It has no reference, as far as the creation of jurisdiction is concerned, to Northern or Southern claims, Eastern or Western. This bill gives the court jurisdiction to decide nothing.

The House bill, I believe, does the same thing; it gives no power whatever to the court, and I need not waste any time in discussing here whether any power shall be parted with by this Congress and given to the Court of Claims. In one sentence I can tell the whole effect of this bill as to the Court of Claims. It merely says, and there is nothing else essential in it, that either House of Congress, or any committee, or any Department of the Government, may (not must or shall, but may) send any claim to the Court of Claims in order that it may not enter judgment, not send a warrant for payment, not send an appropriation bill here for the payment of their judgment, but find the facts simply and report them to the body which sent the case to them. That is all it does. The Court of Claims may do this, and may, as it finds any other fact in any other case before it, decide these cases so far as the finding of fact alone is concerned. You will see at once the only object of the bill. Congress, or a committee of either House of Congress, may transmit such claims with the vouchers to the Court of Claims and ascertain the facts. We cannot find facts in our legislation here; we cannot examine *ex parte* evidence in all the cases, and it is worthless if we do. We cannot sit as a court, and therefore we will delegate these duties to a tribunal having all the machinery of a law court and which can find the facts in a particular way, and with all the safeguards on the part of claimants, and on the part of the United States of cross-examination and otherwise, and with the same power to summon witnesses and obtain evidence that any law court possesses.

That is all there is in this bill, and I think there is not a man on this floor that will oppose it; in fact I am sure there is not, because the Committee on Civil Service Reform, who reported a substitute bill, have adopted the bill of my committee *verbatim et literatim* from beginning to end, and then attached it to several additional provisions which they think ought to pass. So I think I may dismiss the

discussion of the bill reported by the Committee on Claims, because the gentleman from Tennessee, if I understand him, and all other gentlemen in this House, with amendments or substitutes, admit that this bill is correct, and they propose only an enlargement of its provisions. Therefore, until I have notice that this bill is attacked in any way, I do not propose to say a word more in its defense.

Now, Mr. Speaker, it may be ahead of time for me to criticise the House bill as I will term it for convenience, rather than to call it the bill reported from the Committee on Civil Service Reform, as it is generally known by the term the House bill, I say it may be ahead of time to criticise that before the arguments in its favor are made. But to avoid claiming the floor again, I will as briefly as possible state my objections to the bill.

This bill of the Committee on Claims has been carefully drawn, has been examined by the judges of the Court of Claims, and satisfies them, and I think is perfect so far as it goes.

Mr. BUTTERWORTH. Before the gentleman from Massachusetts draws away from his own bill, permit me to ask him whether according to its provisions this does not open the Court of Claims to all claims and to all claimants? They first are required to file their claims in any department, and thereafter, the claims being pending in the Departments, they have a right to go into the Court of Claims.

Mr. BOWMAN. Not at all, sir.

Mr. BUTTERWORTH. I see no restriction in the language here.

Mr. BOWMAN. I think it does restrict, if the gentleman will observe, by the first section. It provides that whenever a claim is pending before any committee of the Senate or House of Representatives, or before either House of Congress, it may be transmitted to the Court of Claims. This is one of the great merits of the bill as contradistinguished from the House bill, because Congress has said as to certain classes of cases that we exclude them on principle and we do not care what the evidence is.

Mr. BUTTERWORTH. The second section of the bill is the one I refer to, and that certainly does not bear out the conclusion reached by the gentleman from Massachusetts, unless possibly I hold the wrong bill in my hand. The number of the bill which has been handed me is 4467.

Mr. BOWMAN. That is the wrong bill; that is the House bill which you have; the number of the bill to which I am referring is 684.

This is the great difference of principle between the two bills; because you rightly say that under that bill, no matter though Congress in regard to certain classes of claims which might be enumerated, but which I do not care to enumerate now, says that they are not to be paid on principle, nevertheless those claims could go into the Court of Claims for an adjudication of the facts.

Now, my objections to the House bill are as follows. I will ask the Clerk to read the first section of the House bill—the bill No. 4467.

The Clerk read as follows:

Be it enacted, &c., That Congress shall not authorize the payment of any private claim not payable under existing laws until the facts on which such claim is based shall have been judicially established and reported as hereinafter provided.

Mr. BOWMAN. The House will notice that under this clause the bill cuts off all cases where facts may have been already found by another tribunal. It obliges a retrial of the case. No claim can be paid until under this law it shall have gone to the Court of Claims. For example, the State of Massachusetts had a claim against the United States. By act of Congress a judicial commission heard the parties, represented by eminent counsel, decided the case and entered up their judgment, which judgment has never been paid. That case must be tried again in the Court of Claims under this bill. Witnesses may have died; evidence may have been lost or destroyed; and yet in all cases claimants must go to the Court of Claims and try their cases over again—cases where claims are admitted and proved by the Departments, if you please; where the Departments may have given certificates that the claims are due; where the Government has not denied the justice of the claims, and does not wish to contest them. All of these under the law, if this substitute bill becomes a law, must go into the Court of Claims.

I think this is a great objection to that clause. It is contrary to the principles of law or justice to make a man try his case twice over. If he has been once to a tribunal and all his facts are adjudicated, he has a right to destroy his evidence if he pleases, to be careless of it, and let it go, to say he has once tried the case and does not expect to be called on to try it again.

There may be in Congress perfectly plain and simple cases; there may be a case of a man who holds a bond, for example, of the United States, or holds an agreement under seal where there is no doubt about the evidence and no question about the propriety of payment; and that man should not be compelled to go to the Court of Claims.

Now I will ask the Clerk to read the second section, and I ask the attention of the House to that section as it is read, because I can make no better argument against that clause than to have it read, provided it is listened to. I think it will refute itself.

The Clerk read as follows:

SEC. 2. Any person having a claim or matter against the United States in respect of which he desires relief by special act of Congress, and of which the Court of Claims could not under existing laws take jurisdiction, may, before applying to Congress for such relief, file a petition in that court stating the facts and grounds on which the relief is sought, and praying the court to find the facts; and the court, under such rules as it may adopt, shall find the facts as established by the evidence, and report the same, with a copy of the petition and answer of the Government, to either House of Congress.

Mr. BOWMAN. Now, as was suggested by the gentleman from Ohio, we come to the objectionable feature, the great objectionable feature in the substitute bill, which I think should prevent its passage.

Mr. BUTTERWORTH. If my friend will allow me, I want to call his attention to the second section, the second section of his own bill; I have already called attention to it. He will observe under its operation every conceivable character of claim, however founded, however it may have originated, may be filed with the several Departments and by those Departments referred to the Court of Claims.

Mr. BOWMAN. May be.

Mr. BUTTERWORTH. "May be," certainly; they probably would be. There is no limitation at all in that as to the character of the claim. Now, it seems to me some limitation should be provided; some jurisdictional limitation for the government of the court in the considering of claims; otherwise the very claims to which my friend would object I am sure would pour into the Departments by the hundred. Some limitation of time or some other should be fixed.

Mr. BOWMAN. We ought to have a protection somewhere, and the only protection I can think of is in the discretion of the Departments. And secondly, if the Departments do as we think they ought not to do, namely, send improper claims to the Court of Claims, which it is not to be supposed they will venture to do in great classes of objectionable cases, then the Court of Claims only finds the facts and sends them back. Now under this clause of the substitute bill which I object to any person whatever, without any preliminary examination by Congress, by the Attorney-General according to the Edmunds bill, or any other restriction, can open the doors of the Court of Claims, and go right in with his case. Speculative cases, cases which may have no foundation, and where the man thinks he will go a fishing to see if he cannot hunt up something, and possibly get a favorable report—claims barred by limitation, claims barred by the policy of the law, and of the statute, claims barred by the custom of Congress, or of committee, Northern claims, Southern claims, Eastern claims, Western claims—all can go right into the Court of Claims and obtain from that court an adjudication of the facts.

I call to the attention of the House that all other bills have had a safeguard. The bill which I believe is pending in the Senate, known as the Senator Edmunds bill, provides, if I remember, that claims can go into the Court of Claims provided they have the consent of the Attorney-General. That certainly strikes me as an extraordinary provision to say that a plaintiff may sue a defendant in a court provided the defendant first files his consent that he may be sued; that a claimant may sue the United States provided the United States consents. Such a bill is blank paper, or hardly worth the expenditure of the ink and the paper-pulp or wood-pulp used in producing it.

Now, there are certain classes of cases, as we all know, which are barred on principle; Congress does not care to investigate them. When they come before a committee of Congress the committee says, "We do not care what are the facts; we find as a matter of national policy, or of law, or in following precedents, that they are within prohibited classes."

For example, there are many claims pending at this time on account of losses occasioned by battle or the necessary results of the war while the Army was in active operation and where the Army was in active operation. Gentlemen on both sides of the House will say that they do not want such claims considered or paid; that they will not allow the claimant to go into a court and obtain a judicial report on the facts and then by working up sympathy with newspapers or with the people try to build up a case here, and when he gets it into Congress says, "You see, I have a report of the Court of Claims judicially saying that this is a case of terrible hardship; all the facts found judicially, and now I call upon you to pay the claim on those facts."

There are certain other claims barred by customs of committees. For example, the Committee on Claims of the present House early decided that all claims of the following character should not receive a favorable report: of officers or employés of the Army or Navy who have lost personal goods by the sinking of a ship, for example, or other casualties. The question was presented to us whether such a claimant was entitled, besides the pay and emoluments of the service, to insurance on his watch and all other personal property. There are hundreds of such cases here; and as a matter of policy it was determined by us that the United States ought not to insure such claims, and we did not care what were the facts.

Mr. BRAGG. Will the gentleman permit me to ask him a question?

Mr. BOWMAN. Certainly.

Mr. BRAGG. Is it not a fact that heretofore at nearly every session of Congress some committee or other of this House has passed just such claims?

Mr. BOWMAN. Yes; but you will not find that our committee has done it.

Mr. BRAGG. Will not other committees do it?

Mr. BOWMAN. We established the principle that such claims

should not be allowed, and I believe we have followed out that rule faithfully.

Mr. BRAGG. But your committee is not a committee in perpetuity.

Mr. BOWMAN. No, sir; fortunately not.

Mr. ROBINSON, of Massachusetts. You hope to be.

Mr. BOWMAN. No, sir; we do not hope to be. We have had enough of it, and that is why we want this bill to go through.

Other claims will suggest themselves to members as barred by policy, by law, or by precedent. For example, the claims under the Southern claims commission, improperly so called, for it was really a general claims commission. Do gentlemen know what that Southern claims commission bill was? Do gentlemen think that that was a bill for the payment of Southern claims? It was not. That bill did not provide for the payment of a single Southern claim of any kind or nature. That bill provided that a certain tribunal called the claims commission should sit—and do what? Do exactly what the Court of Claims will do under this bill; find the facts, adjudicate them, and report them to Congress for its action. This substitute bill is the Southern claims bill almost *verbatim et literatim*. Do I misstate it?

Mr. HOUSE. You do not state it exactly.

Mr. BOWMAN. Let me send up to the Clerk's desk and have read the second section of the bill known as the Southern claims commission bill.

Mr. HOUSE. The portion of that bill relating to war claims is similar to my substitute, I will admit.

Mr. BOWMAN. While the Clerk is reading section 2 of that bill, I ask members of the House to run along in their minds in parallel lines, following, if they choose, with their eyes, the second section of the substitute bill.

Mr. HOUSE. The gentleman perhaps misunderstood me. I said that my bill was similar to the Southern claims commission bill in reference to war claims alone. I understood the gentleman to say that the whole of my substitute was similar to the Southern claims bill.

Mr. BOWMAN. No; I only meant that section 2.

Mr. HOUSE. I do not controvert that. You must necessarily have some such provision.

Mr. BOWMAN. I call the attention of the House, while the Clerk is reading that section, to the fact that this substitute is substantially a re-enactment of the Southern claims commission bill, which I think expired in 1874.

The Clerk read as follows:

SEC. 2. That the President of the United States shall be, and he is hereby, authorized to nominate, and, by and with the advice and consent of the Senate, appoint a board of commissioners, to be designated as commissioners of claims, to consist of three commissioners, who shall be commissioned for two years, and whose duty it shall be to receive, examine, and consider the justice and validity of such claims as shall be brought before them, of those citizens who remained loyal adherents to the cause and the Government of the United States during the war, for stores or supplies taken or furnished during the rebellion for the use of the Army of the United States in States proclaimed as in insurrection against the United States, including the use and loss of vessels or boats while employed in the military service of the United States. And the said commissioners in considering said claims shall be satisfied from the testimony of witnesses under oath, or from other sufficient evidence, which shall accompany each claim, taken under such rules and regulations as the commissioners may adopt, of the loyalty and adherence of the claimant to the cause and the Government of the United States before and at the time of the taking or furnishing of the property for which any claim shall be made, and of the quantity, quality, and value of the property alleged to have been taken or furnished, and the time, place, and material circumstances of the taking or furnishing of the same. And, upon satisfactory evidence of the justice and validity of any claim, the commissioners shall report their opinion in writing in each case, and shall certify the nature, amount, and value of the property taken, furnished, or used as aforesaid. And each claim which shall be considered, and rejected as unjust and invalid, shall likewise be reported, with the reasons therefor; and no claimant shall withdraw any material evidence submitted in support of any claim.

Mr. TYLER. Will the gentleman allow me to ask him a question?

Mr. BOWMAN. Certainly.

Mr. TYLER. In the law establishing the commissioners of claims, what was known as the Southern claims commission, there is a provision that that commission shall examine only the claims of such persons as maintained their loyalty to the Government of the United States during the war. I inquire of the gentleman if he does not think some such provision is required in his bill referring claims to the Court of Claims? I do not see any such provision in his bill.

Mr. BOWMAN. Because these claims cannot go to the Court of Claims at all under my bill unless Congress or a committee of Congress shall send them there by special vote. This Court of Claims commission bill was passed March 3, 1871, expired in two years, and was subsequently prolonged for two years more, I think.

Mr. TYLER. I think it was still further extended, so that the duties of the commissioners as to the adjudication of claims did not expire until 1879.

Mr. BOWMAN. It was extended four years longer instead of two, I believe.

Mr. TYLER. It was extended as to the time during which the commissioners might receive claims; and they adjudicated them long after they had ceased to receive them. Now, as I understand the gentleman, if Congress, or a committee of Congress, or a Department should elect to send a disloyal claim to the Court of Claims, it could do so under this bill.

Mr. BOWMAN. That could be done under the present bill; but I do not see how it is possible to put into a bill the barred classes of cases. We must leave something to the discretion of Congress or the committees of Congress; and it must be remembered that whatever act may be passed, Congress without regard to it can send claims or not to the court as it may prefer. This is simply a measure to point out a road to Congress or a committee of Congress toward getting cases into the Court of Claims if that be desired.

Mr. ROBINSON, of Massachusetts. Congress can refuse to pay the claims.

Mr. BOWMAN. Congress can always refuse to pay; and Congress may provide payment by a bill whenever it pleases, no matter what sort of a measure we may now adopt. This substitute bill, as gentlemen must admit, is in this clause a re-enactment of the bill for the establishment of the Southern claims commission.

Mr. TYLER. I desire the gentleman's view on another point.

Mr. BOWMAN. I am glad to hear any question.

Mr. TYLER. I want to inquire whether in the gentleman's judgment the examination of these claims by the Court of Claims would not be practically an adjudication in the same way as when claims were examined by the commissioners of claims? I do not understand that the adjudication of those commissioners upon questions of fact was ever reviewed even by a committee of Congress; certainly not by the House. The same is true of claims that come up here from the Quartermaster of the Army.

Mr. BOWMAN. I am glad the gentleman asked that question. It reminds me of a point which I might have forgotten. The action of the court in these cases does not amount to a final adjudication. The position of Congress under this bill will be precisely that of the Supreme Court in regard to legal cases coming before the Court of Claims. Cases may be considered as legal or equitable. All legal cases in which damages are due under existing contract go now to the Court of Claims, and may be taken on appeal to the Supreme Court. When the law was first passed the Court of Claims sent up their cases in bulk—evidence, depositions, and all—to the Supreme Court. That court said:

If we undertake to re-examine all the points of these cases we shall be swamped; we can do no other business. We refuse to consider in that way cases coming up from the Court of Claims.

The Supreme Court adopted a rule to that effect; so that the Court of Claims now makes a finding of fact alone, which generally does not cover more than two or three or half a dozen pages of printed matter of the size of our reports; and this finding goes up to the Supreme Court.

Now, as legal cases go up in that way to the Supreme Court from the Court of Claims, so under this bill equitable cases will come up to Congress as a supreme court of claims in regard to such cases. The position is exactly parallel.

Mr. PEELLE. In regard to the reference of claims of persons who are disloyal to the Court of Claims, I wish to say, in answer to the gentleman, that the question of loyalty is also a question of fact to be ascertained by the court.

Mr. BOWMAN. I am glad the gentleman has referred to that; for it brings up one of the features of the law in connection with this bill which demands the very careful and perhaps the prayerful consideration of this House. Let me suppose that a Southern claimant under this substitute prepared by the Committee on Civil Service Reform goes to the Court of Claims. There is no need of mincing matters; we may as well look these things right in the face. A Southern claimant goes to the Court of Claims; that court reports the facts in his case to Congress, showing perhaps a case of peculiar hardship, appealing strongly to our sympathy, and also reports that the question of loyalty under the law or under the decisions of the court was not one of the material facts, although reported on, or was not one on which the court deemed it necessary to make a finding; that loyalty is of no importance as affecting the case. I believe that ground has sometimes been taken by some courts. I am very much misinformed if it has not been.

Mr. HOUSE. That could not possibly be so under our bill, I think.

Mr. BRIGGS. Suppose the court makes the same report upon a claim under the bill of the gentleman from Massachusetts.

Mr. BOWMAN. Ah, but we have the safeguards beforehand.

Mr. BRIGGS. I do not see them.

Mr. BOWMAN. We provide the same safeguards, I submit to the gentleman, that are now provided. No man can claim that this bill of mine diminishes the safeguards. A committee of the House to-day can report on the question of loyalty; but under this substitute bill the Court of Claims, under the decisions of the Supreme Court, may, if they choose, in their finding report as follows, for example, concerning a Southern claim: "We find the facts concerning this claim to be so and so, and although we are required by the law to find also as one of the facts the question of loyalty, we are satisfied, under the decisions of the court in regard to the amnesty proclamation, that that is an entirely immaterial fact."

When we find the fact we find it so and so, and it is immaterial and cannot lawfully bar a claim, and therefore we so report as a fact on that question."

Mr. TYLER. I hope the gentleman will bear with me for one moment.

Mr. BOWMAN. The gentleman says it is a question of law, but

cannot the Court of Claims say they are required to find the question of loyalty as a question of fact, and it having been decided that it is an immaterial fact, they do not deem it necessary to report it? We are making a law for future and unknown judges to act under, as well as the present ones.

Mr. BRAGG. Permit me to ask what will become of such a claim when reported back to Congress? Must not the entire contest be gone over again in this House?

Mr. BOWMAN. Let me ask the gentleman whether he wants to go over that contest in this House when he can stop it?

Mr. BRAGG. Let me inquire of the gentleman again. There never yet was a claim in which the claimant filed a statement of his personal disloyalty in support of it. I doubt whether you ever saw one where the claimant did not file an affidavit of loyalty in support of his claim.

Mr. BOWMAN. That is so.

Mr. BRAGG. If he filed an affidavit from some one that he was loyal during the war, the committee will send it to the Court of Claims and the Court of Claims will have jurisdiction of it. You make it all depend on the statement filed with the claim whether the claimant be loyal or not, and according to that standard there was never a disloyal claimant.

Mr. BOWMAN. I assume in most of the cases the House intends to abide by the Southern claims commission bill, and to regard that as a limitation in all cases.

Mr. BRAGG. Let me inform the gentleman that this House has violated that rule frequently; that this House has reported bills to pay balances rejected by the Southern claims commission.

Mr. BOWMAN. To attempt to bring up isolated or not isolated cases or whole classes of wrong legislation is no answer when we are trying to put additional safeguards in the way; to put additional adjudication by the Court of Claims in the way, when we have nothing to-day but a one-sided *ex parte* adjudication by a committee of Congress which cannot examine the evidence. And when we propose to put up additional bars, to say that beside doing what you have done before you must go to the Court of Claims and obtain a legal adjudication, it is no answer to say that under an inferior mode of proceeding like the present bad cases have received payment.

Mr. TYLER. Will the gentleman from Massachusetts bear with me?

Mr. BOWMAN. I am glad to have gentlemen ask me questions.

Mr. TYLER. I cannot see any objection to having the same safeguard thrown around the Court of Claims in examining these cases that was thrown around the Southern claims commission, so called.

Mr. BOWMAN. Perhaps the gentleman knows what weight is attached to that in the Court of Claims.

Mr. TYLER. That the Court of Claims should first ascertain the loyalty or disloyalty of the claimant, and if disloyal the report should be adverse. Under this bill they are to go on and find the facts.

Mr. BOWMAN. You mean my bill and not the House bill.

Mr. TYLER. They would find whether the claimant was loyal or disloyal, and if disloyal the report should be adverse. They might proceed to examine so as to report the whole case back to Congress. We had an example of that a week ago to-day, where the Committee on Claims reported back a bill where they found the claimant was disloyal but still recommended the passage of the bill. I say there should be a provision which should bar out a disloyal claimant. The first thing which should be examined and adjudicated by the Court of Claims should be whether the claimant was loyal or disloyal, and if disloyal that should be the end of that claim.

Mr. BOWMAN. I do not object to any amendment of that sort, but desire to adopt all of the safeguards, for they will do no harm.

Mr. TYLER. It did no harm in the Southern claims commission to establish just such safeguard.

Mr. BOWMAN. I find I must hurry over the different clauses, as my time has nearly expired.

Now, the fourth section of the substitute bill attempts to set up a protection against this kind of facts or state of law by providing that the court shall find the question of loyalty, but that does not prevent the court finding all the facts and reporting them. Loyalty is one of the facts. In regard to Southern claims, claims for losses which were the necessary result of battle or war; claims for losses by stealing by soldiers; claims for the destruction of buildings or supplies to prevent them falling into the hands of the enemy; in all these cases the court under this substitute bill finds all the facts and reports all the facts which may be established as a foundation for working up sympathy in the newspapers among the people or in Congress, and makes this fact one isolated fact, the question of loyalty. It does not say that the court shall not find and report the facts until it has first found that the claimant is loyal, but it allows the court to find all the facts, one of which is the question of loyalty, and precisely as was provided in the case of the Southern claims commission; and if I am wrong in that statement I would like to be corrected now.

The fifth clause of the bill provides that all claims now pending in either House of Congress at the final adjournment thereof, petitions, bills, resolutions, and memorials, the whole mass pending in Congress, is to be put into carts and teamed down to the Court of Claims and dumped bodily into that court—thousands upon thousands of cases—I think in the last Congress there were about twenty-four thousand of them; I do not mean of the private claims merely, but of all matters before Congress, and of these I do not know how many were private claims, but probably a large majority were. This whole mass is all to be dumped down into the Court of Claims.

Now, I do not know what the court will do, or what provision they will make for taking care of them. The mere indexing, assorting, them, putting them away, docketing the cases, calling them for default or otherwise, would require the service of a largely increased clerical force. Thousands of these claims are utterly worthless. Claims that the claimants themselves never thought worthy of pressing, where the claimants in many cases did not appear before the committees even to press their claims; claims, which have no evidence to substantiate them; worthless speculative cases, fictitious cases, all must go, and notwithstanding this and no matter what their character may be, the whole mass of rubbish must go down bodily to the Court of Claims and impose additional labor and expense upon that body.

The sixth clause is an absolute bar to all claims occurring prior to 1866, and not pending since 1860 in Congress. Now, Mr. Speaker, I want to say here that I have no sympathy whatever for the defense of a claim being stale, which is a favorite defense here, especially on the part of those who may be desirous of having the reputation of being the watch-dogs of the Treasury. I have not the slightest sympathy with that defense, and it weighs very little with me in the consideration of any question. I shall never be satisfied to take the position of an advocate for the refusal of the Government of the United States to pay its honest debts. Many of these claims are barred by the statute of limitations in this bill when the fault is not with the claimant. They have been coming here year after year with their claims, many of which should have been paid years ago. I have no sympathy therefore with the defense that a case is stale, or that a man who has grown old in prosecuting it has abandoned it. Perhaps he was not able longer to prosecute it, and would not or could not come to Congress after useless trials, and for years perhaps had necessarily allowed the claim to slumber. Newly-discovered evidence may be found in support of claims.

The gentleman opposite me brought such a case before our committee within the last few days, a perfectly just claim supported by evidence which had been voted upon in the Continental Congress, a revolutionary claim, and the heirs had just discovered it. There was no possible doubt about the fact that every single cent was due just as claimed. The defense of limitation by the United States where the debt is honest and justly due, (let me assume that always—where it is honestly due, where the evidence shows it to be due,) I say this defense is often a cruel one on the part of a great government, and it is often unjust to set up a plea in defense that the claim has expired by limitation and should not be paid. I do not believe in the justice of such a plea. Let me send to the Clerk's desk and have read an article which I saw the other day in reference to the effect which this statute or doctrine of limitations has had in the case of one of the honest creditors of the United States; in a case where the money was due, where the United States admitted the justice of the claim, and where this claim was barred by this statute of limitations. I ask the Clerk to read the extract which I send to the desk.

The Clerk read as follows:

One could wish, for the honor of our country, that this were the end of the story of the life of Arthur St. Clair. But the saddest tale remains to be told. When he returned from his long service in the Northwest Territory, almost penniless, he endeavored to save something from the wreck of his affairs to support his few remaining years. In the dark days of the Revolution he had advanced from his own means, and at Washington's request, $1,800 for the recruiting service, which helped to save to the Army the Pennsylvania Line, which was its flower; and now, in his great need, and with orphan grandchildren dependent upon him, he asked Congress to repay him that sum. A committee reported that the money had been furnished and expended for the benefit of the United States, but that it was barred by the statute of limitations, and recommended the denial of his petition. Again, in the management of the Indian affairs of the Territory, and to carry out the orders of the Secretary of War, he became responsible for $9,000 of supplies furnished to the Government. He had the assurance of Alexander Hamilton, as Secretary of the Treasury, that this claim should be paid with interest; but when he applied to Congress payment of this just debt was refused, and again because of the statute of limitations.

An English gentleman who chanced to be in Washington during the discussion upon General St. Clair's claim thus described his appearance: "This aged patriot, with clothes which might seem, from their appearance, to have felt the effects of all the seasons for the last ten years, with flaxen hair, tottering limbs, a care-worn countenance, deeply dejected from supposing his country ungrateful, and with one foot in the grave, is now a petitioner to that people in whose service he spent his youth, his treasure, and his blood, aiding them in their emancipation from external dominion, and in raising them into a great and an independent nation." Mr. Smith says Henry Clay was among those who befriended St. Clair on this occasion; but this traveler says the prominent leader against St. Clair's claim was Mr. Clay, of Kentucky, whose argument he listened to. However this may be, all that Congress would do was to allow him a pitiful pension, which an unfeeling creditor seized upon at the very door of the Treasury. He returned to Western Pennsylvania, where all that remained of his property had been swept away by the debt contracted for the Indian supplies, and he went forth, in extreme old age, to dwell in a log cabin, in great privation, until the summer of 1818, when death came to his relief. His remains rest beneath a simple memorial, the inscription on which truly recites that it is "an humble monument erected to supply the place of a nobler one due from his country."

Mr. BOWMAN. There is an example of the effect of this beautiful statute of limitations. Allowing that the money was due, it being admitted by a report of a committee of Congress that the debt was justly due, an old soldier who had fought through the war of the Revolution was allowed to die in his log cabin, in great penury and suffering. There are other cases, many of them. I will only refer

to the somewhat romantic case of General Sutter, that old gray-haired gentleman from California who came before our committee in the last Congress—a man who had lived like a prince in his own dominions, who received and cared for General Frémont and his hardy pioneers and our bands of soldiers on their exploring expeditions to the great West and across the continent; who, with his fort mounted with cannon, with his hundreds of horses and cattle, and his great fields of grain, was independent and prosperous, and a great part of whose province was taken from him and sold by the United States. I might picture this old man, gray-haired and feeble, sinking into his grave, dying as he did last year in disappointment and want, and unable to get a dollar of his money out of the United States Treasury, money that was justly his due. I do not like this statute of limitations against honest claims. The statutes of repose assume that the creditor has failed to recover, and that if he does not it is his own fault or negligence; but no such presumption arises here. How much time have I remaining?

The SPEAKER *pro tempore*, (Mr. ROBINSON, of Ohio.) The gentleman has five minutes of his hour remaining.

Mr. BOWMAN. There is no such presumption here for a statute of repose. A man can come here on his knees and humbly beg that Congress will give him his money, but he cannot sue or compel, and in nine cases out of ten Congress never will give him his money.

The seventh clause of the House bill is a good amendment. I will offer it if no one else does as an amendment to the bill of the committee of which I have charge. It did not occur to us; but the judges of the Court of Claims and others say that it is a good thing that these international disputes between the United States and foreign governments may be sent to this Court of Claims for the finding of the facts.

I will occupy only a few moments more. Here is the great difference between the two bills. The one a permissive bill; a simple, compact bill allowing claims to be sent by committee or by Congress to the Court of Claims; the other a broad, sweeping, open bill, sweeping in all classes of claims without any discrimination and without any bar. All claimants whatever, whether they are going afishing to see what they can get; whether they have speculative claims; whether they have claims barred by principle or by statute or by precedent, all of them can go right into the Court of Claims with their cases, no matter what they are.

I only want to say a word, Mr. Speaker, concerning the absolute need in the interest of justice and in the interest of fair dealing of some bill of this sort passing. I cannot delay long upon this subject. In the first place, as regards the United States, some bill of this sort is necessary. How are cases tried here to-day? There is no security against fraud. The evidence is all taken by *ex parte* affidavits or mere letters; no opportunity to see a witness; no opportunity to confront him; no opportunity to meet him even by a written question; no opportunity to examine him in any way; no examinations for the defense, and no evidence for the United States, unless it is to be found among the records of the different Departments. A good honest deposition looks no better, is written on no whiter paper, has no better penmanship than a fraudulent deposition, and the United States is absolutely without any guard or any security against fraud. But, Mr. Speaker, grievous as are the wrongs and possible injustice toward the United States, they bear no comparison with the wrongs of the creditors of the Government. Every member of this House knows that a private claim against the Government requiring the interposition of Congress is almost worthless; I venture to say that no gentleman of experience upon this floor, if a man came to him and said "I have a contract of the United States; I have an agreement acknowledging in the most solemn terms that they owe me a certain sum of money; all the Departments say and every one acknowledges that the money is due, but I need the interposition of Congress," I say (I think without exaggeration) that, as a purely mercantile transaction, there is no man on this floor that would give ten cents on the dollar for any such clain.

Mr. BRIGGS. Would not that claim go to the Court of Claims now?

Mr. BOWMAN. Not unless it was a legal claim under the law.

Mr. BRIGGS. All claims founded on a contract may go to the Court of Claims.

Mr. BOWMAN. It may be a claim barred by limitations, or there may be other defenses.

Mr. BRIGGS. Then do I understand the effect of your bill to be to remove the limitations?

Mr. BOWMAN. No, sir; not at all.

The SPEAKER *pro tempore*. The time of the gentleman from Massachusetts has expired.

Mr. ROBINSON, of Massachusetts. My colleague from Massachusetts has given a great deal of time to this matter, and the House wants instruction on it. If my colleague wishes to have ten or fifteen minutes more, I think the House will readily grant him that time

Mr. BOWMAN. I only wish about ten minutes more.

There was no objection, and Mr. BOWMAN's time was extended for ten minutes.

Mr. BOWMAN. I am obliged to the House for its courtesy.

Mr. Speaker, I do not think I can exaggerate the wrongs of claimants. What is the reputation of an individual, rich and able to pay his debts, who refuses to pay them? We say that that individual swindles. That is what we call it; and I say (and I do not believe the expression is exaggerated) that notwithstanding the talk I hear on this floor and elsewhere of the swindles on the Government, I venture this assertion that the Government every year swindles people out of more money than it is swindled out of. I use that expression, offensive as it is, because it is a strong term and may sink into people's minds; and seeing the grievances of claimants, how they come up here year after year, I desire to arouse a public sentiment here at least which will somehow compel these United States to pay their honest debts to honest claimants. I say that the refusal, or rather the neglect, or rather by reason of the amount of business in our hands the impossibility of securing payment for honest creditors, is a public disgrace. Claimants come here year after year. They grow old and gray in the service. When they are once bitten with the tarantula of thinking they can recover a claim here, they will not abandon it and their children will come after them.

The case of Jarndyce *vs.* Jarndyce, dragging along in English courts, is nothing to cases which come up here at every session. Revolutionary claims come before us frequently, honest, just claims, and claims of the war of 1812. Claimants come to us and their heirs and descendants for all the years from the beginning of the Government to the present time. And do they get their pay? Not in one case out of ten. The cases serve as foot-balls between the two Houses of Congress. In one Congress the case goes through the Senate; in the next Congress it goes through the House; in the next Congress, through the Senate; and in the next Congress, through the House; and so for generations cases act as foot-balls and are kicked back and forth between the two branches.

It is absolutely impossible for cases to be properly considered and acted on here in Congress. I call the attention of the House and of the country to the immense mass of business in the Forty-fifth Congress, for example. In that Congress the total number of House bills and joint resolutions were 7,676; of Senate bills and joint resolutions, 2,391; of petitions, about 14,000. The total of matters in the Forty-sixth Congress amounted to the enormous number of 24,067.

Look at this book, [holding it up in his hand,] the Calendar of this House, a veritable tomb of the Capulets, a grave of dead hopes. There are more tragedies bound up within the covers of this book than in any novel or set of novels ever written. That book represents money due to poor widows and children and heirs of revolutionary soldiers, or of other worthy and suffering claimants. It represent hopes that have been abandoned. It represents claimants who have come here year after year praying the United States to pay its honest debts, and it represents the disgrace of the United States in not paying its just dues to honest men and women and children, and to soldiers, and sailors, and to many a one who has deserved better treatment at his country's hands.

The Committee of the Whole House on the state of the Union has on its Calendar 179 cases; it is the Calendar of last Monday. The House Calendar contains 87 cases; the Private Calendar, 324 cases; of special orders, 8 cases; of unfinished business, 14 cases; of Senate bills on the Speaker's table, 170; a total of 782 cases.

We have sat here month after month, and have reached the House Calendar but once during this whole session, and we probably will never reach it again. There are pages on pages of the House Calendar, and we never see it, and probably shall see it but once during this whole Congress. There is the Calendar of the Committee of the Whole on the state of the Union which we almost never get to. I believe we have not been to it more than two or three times during this whole session.

Mr. ROBINSON, of Massachusetts. Will the gentleman allow me to ask him a question right there?

Mr. BOWMAN. Certainly.

Mr. ROBINSON, of Massachusetts. As we are looking for relief, I would like to inquire of my colleague concerning the result of the work of Congress on the reports of the Court of Claims; whether he expects that Congress after receiving such reports will proceed to act upon individual and separate claims; whether such claims will go upon the Calendar separately, or whether they will come before us in bulk, like the quartermasters' claims bill which we passed one day not long ago? If that is to be the result of the operation of this bill, then such claims will receive no consideration hereafter. If we do not pass them in bulk but take them up individually and consider them, will we not have just as large a Calendar as we now have? I do not ask this in opposition to the bill, but in order to get at the facts.

Mr. BOWMAN. I am glad my colleague has asked me the question; though to tell the truth I did not venture or wish to take up this subject in the bill, because I wanted a plain, simple bill that would go through, and which might be improved afterward, if it was found necessary. I will tell the gentleman in a moment what my idea is and what I think should be done.

Taking this bill as it stands, I assume that when the facts, in short printed statements of not more than two pages each in a majority of cases, shall come before Congress or a committee of Congress under the authority of the Court of Claims and after a judicial examination, the committee and the House will adopt such statements of facts and

come very speedily to a conclusion; certainly as speedily as we now do in pension cases, which do not materially delay the House or clog the Calendar at the present session.

Now, what possibly may be done, as the gentleman suggests, is this: when this system shall go into working operation and we shall see, as I anticipate we shall, the good results flowing from it, and we find our committees spend no time in examining evidence in claims; that short and simple reports coming from the Court of Claims are adopted as a sound basis for our action; when this experiment has been so fully tried as to satisfy the House that it is the honest and just and proper mode of disposing of these claims, then it may be that the Committee on Claims under new laws or rules, as the Committee on Appropriations now do, may report a general claims appropriation bill. Some method, if thought advisable, might be adopted by which the Committee on Claims could report a general claims appropriation bill, giving in the report accompanying it a short *résumé* of the facts, in a shape, perhaps, like the ordinary head-notes in our legal reports.

A general claims appropriation bill might be brought in with an accompanying report, stating in a few lines under each claimant's name the gist of his case and what points are involved in it. The whole bill can be taken up and considered as we now consider an appropriation bill for the Army or for the Navy, or for the improvement of rivers and harbors; but all that has nothing to do with this bill.

I do not want that to enter into this discussion, because I do not want gentlemen to say that this is intended as an entering-wedge for the other; that it is intended that all these claims shall be lumped together and passed in that way. All I want this bill to do is to demonstrate to the House that this is the honest and just way to decide claims, both in the interest of the United States and in the interest of honest claimants.

The SPEAKER. The time of the gentleman has expired, and the gentleman from Tennessee [Mr. HOUSE] will be recognized as entitled to the floor.

Mr. ROBINSON, of Massachusetts. I desire to make a single statement, but if the gentleman from Tennessee, [Mr. HOUSE,] who is entitled to the floor, wishes to go on now I will not take up any time at present.

Mr. HOUSE. If the statement is brief it will make no difference.

Mr. ROBINSON, of Massachusetts. I only want to say a word or two in the line of what my colleague [Mr. BOWMAN] has said, in order that we may look through to the end of this thing, as we ought to do in all matters of legislation. It seems to me that we should endeavor as far as possible to anticipate somewhat the result of the proposed legislation.

Under any of these different projects a great body of claims will be sent to the Court of Claims for a report upon the facts. They will come back here in a budget; and we may well contemplate that the amount will run up to a great number of millions—perhaps ten, perhaps fifty—nobody can now tell the amount of money which these claims may involve. Now, I submit for the consideration of every member whether we are likely to get such a safe and careful examination of these claims as we ought to have if they are embraced in bulk in a single bill, different Representatives in the House combining perhaps in support of that bill covering possibly $50,000,000 to be paid in different parts of the country. I question very much whether we shall be able to consider as we ought such a bill. It is not without our experience to see gentlemen on even such a matter as the erection of a public building remaining here until the close of a long day's session in order that one gentleman may support the other, and a third the two, and a fourth the three, so as to have a two-thirds vote to get certain bills through. I will not give such a proceeding its ordinary name. We know what it is. We know how members in that way remain here at the cost of personal discomfort in order to accomplish something that they desire.

Mr. BOWMAN. I hope the gentleman will not discuss that. I avoided striking that snag in the bill——

Mr. ROBINSON, of Massachusetts. I noticed that you did.

Mr. BOWMAN. Because I did not want to have that point raised in connection with this bill.

Mr. ROBINSON, of Massachusetts. It is the very "snag" that is in the stream; it is the first "snag" we see; and I am in favor of knocking it out of the way; or if it is one that we cannot get over or around, let us back water a little and take our bearings.

I only throw out this suggestion in order that gentlemen in discussing this question may come right up to the magnitude of the issue and meet it distinctly.

Mr. BOWMAN. Only one word. The point suggested by the gentleman is not contemplated by the bill. This bill no more contemplates putting all claims together in a single measure than putting all other subjects together. If the House should consider this experiment a good one, it may avoid the possibility which the gentleman speaks of by adopting a new rule. That is the real size of the "snag;" it has no substantial existence.

Mr. ROBINSON, of Massachusetts. But we cannot shut our eyes to results of that kind. The gentleman says that his bill does not approach this question. But I want to meet it. I say that we are called upon to meet it at once here and now. We want to pay honest claims; but let us determine whether we are in danger of doing any thing more.

Mr. HOUSE. Mr. Speaker, all the objections raised by the gentleman from Massachusetts last on the floor, [Mr. ROBINSON,] can, I think, be much better considered when we come to take up this bill by sections for amendment. Whether Congress shall consider these claims in one bill or a hundred bills is a matter for Congress itself to determine. It does not, in my opinion, touch the merits of the proposition to refer these claims to the Court of Claims.

In reference to the objections which the gentleman from Massachusetts [Mr. BOWMAN] has raised to the substitute presented by me, I propose to defer a reply to those objections until we come to consider in their order the several sections to which he objects. I think I shall then be able to show—I hope to the satisfaction of the gentleman from Massachusetts himself—that many, if not all, of his objections are without foundation. I regret very much that he has felt constrained to object to the substitute that has been offered for his bill. As he has stated, the entire bill which he reported from the Committee on Claims is incorporated in the substitute which I had the honor to report from the Committee on Civil Service Reform. But the substitute which I propose has much more extended range than his bill, and I think a range that is necessary in order to accomplish what this House wants to accomplish; that is, to give honest claimants a chance to have their claims heard, and to relieve Congress from the burden of their consideration.

But, as I have said, Mr. Speaker, when the substitute is reached, when it is being considered in the House as in Committee of the Whole, section by section, I shall then take occasion to reply to the several objections which the gentleman from Massachusetts has urged against it. For the present I desire to place before the House the provisions of my substitute and the reasons for its adoption.

Mr. Speaker, the subject of the investigation by Congress of the private claims of citizens against the Government has been for a long time a vexatious and troublesome question and a source of much censure and dissatisfaction on the part of claimants who have been doomed to await for years the action of Congress in their cases until their patience has been exhausted and their lives perhaps worn out in the vain effort to recover what they regard as an honest claim against their Government. From time to time efforts have been made by Congress to relieve itself of the perplexity and burden of the vast mass of these claims that have accumulated upon its hands from session to session and from term to term. But they have increased and multiplied and assumed proportions which dispel all hope that, with its unsuitable and cumbrous methods of dealing with such matters, Congress will ever be able to free itself of the thousands of claims that crowd its committee-rooms and calendars, consuming the time of members that ought to be given to the consideration of questions of public importance and general interest. A just government owes something to its citizens upon whose strong arms and brave hearts it leans for protection in the hour of danger, and upon whose industry, energy, and enterprise it depends for its prosperity. The situation demands that something should be done for the relief both of Congress and the claimant. I am much gratified to be able to state that I believe there is a very general desire in the House to do all in its power at this session of Congress to afford the needed relief, or at least to make an earnest effort to accomplish that object.

It is much easier to see and feel the evil complained of than to devise a remedy. But we can take a step in that direction and, guided by the light of experience hereafter, correct whatever defects and imperfections may be found to exist in any plan which we may now adopt to relieve the situation. A brief glance at past legislation upon this subject may enable us to avoid the mistakes that have marked former efforts and afford us some aid in the task now before us.

In the year 1855 Congress passed an act establishing the Court of Claims. This court was invested with jurisdiction of all claims founded upon a law of Congress or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, and all claims which might be referred to it by either House of Congress. The court was to consist of three judges, to be appointed by the President, by and with the advice and consent of the Senate. This act seems to have been very carefully prepared by some of the most distinguished lawyers in Congress, and but little doubt was entertained by its authors that it would give Congress relief from what was thought even at that day to be a great annoyance and a serious obstruction to the consideration of matters of public and national concern.

But this well-considered and deliberately devised plan, when reduced to practice, fell below the expectations of its friends, and failed to produce the desired results. The act contained provisions which caused considerable friction in its practical operations. It required the court at the beginning of each month during the session to report to Congress the cases on which they had acted, stating the facts of the case, and the reasons therefor, and to transmit with their reports the briefs of counsel and the testimony in each case. Congress was thus made a court of appeals, to review the law as established by the court, and to pass upon all the facts of each particular case, so that when a case was investigated by the court and reported to

Congress it imposed upon Congress all the labor which was necessary to be performed before it went to the court. This, of course, was not intended, but when the act required a complete record of all the proceedings in the court to be returned to Congress, members felt that a duty was imposed on them to examine the record before granting relief. The consequence was that committees were again crowded with the same business from which they had endeavored to escape, and the claimant was compelled to go from Congress to the court, and to follow his claim from the court to Congress again, only to find Congress as helpless to relieve him as before, on account of a want of time to investigate his case.

If Congress had determined to accept the facts as found and the law as settled by the court, its labors would have been so abridged and simplified that speedy relief to the claimant would have followed the report of his case to Congress. Considering the nature of the jurisdiction conferred upon the court, there was really no necessity for any report to Congress at all in the premises. The court was empowered to render judgment, and the judgment of a court of competent jurisdiction ought to have ended the matter and left nothing to Congress but an appropriation of the money to discharge the judgment, and Congress finally came to that conclusion. This but adds another illustration of the difficulty of being able to foresee, in framing a measure, all the imperfections which may be developed in its practical workings, and to provide against them. But a beginning had been made—a court had been established, a tribunal provided to take charge of a large class of cases that had troubled claimants and impeded the legislation of Congress, and it only remained to rectify the mistakes that experience had pointed out to make the machinery provided fulfill the object of its creation.

An amendatory act was therefore passed in 1863. By this act two additional judges were added to the court, making five in all, of which number the court now consists, and an appeal was allowed to the Supreme Court by either the claimant or the Government when the sum in controversy amounted to $3,000. The requirement contained in the former act creating the court, that the records, evidence, briefs of counsel, &c., should be reported to Congress, was repealed, and thus the whole class of cases embraced in the act was eliminated from Congress and their final determination remanded to the courts. After these and such other amendments as the practical workings of the court had shown to be necessary, the Court of Claims moved on in its appointed sphere without difficulty, filling the idea and meeting the expectations of its authors in relieving Congress of thousands of claims which before its establishment had found their way here, because there was no other place to which the claimant could go to obtain relief.

Judge Richardson, of the Court of Claims, in a very interesting article in the Southern Law Review, on the history, practice, and jurisdiction of the court, makes the statement that 12,815 cases against the United States and three hundred and forty-two cases against the District of Columbia had been disposed of by the court from the time of its organization to 31st December, 1881. We might well pause here to inquire how long it would take Congress with its cumbrous and dilatory methods of procedure to dispose of that number of cases. The result has fully vindicated the wisdom of Congress in establishing the court.

But, notwithstanding the large number of cases of which this court has permanently relieved Congress, we still find ourselves so crowded with private claims that Congress calls for relief with a voice as earnest as that of any claimant that knocks at its doors. The question may arise in the minds of some why it is that after Congress has established a tribunal for the trial of private claims all these claims do not seek or are not sent to that court for final adjudication. It must be borne in mind that that court has jurisdiction only of that class of claims founded on a law of Congress, the regulation of an Executive Department, or on contracts express or implied with the Government, and which can therefore be finally disposed of by the judgment of a court, whereas the great mass of claims that are now before Congress are of a character to which the fixed rules of law are inapplicable, and which, therefore, no court can well decide. They are cases founded upon no legal right, but upon what the parties claim is simple justice on the part of the Government toward its citizens. They are therefore addressed to the sense of justice, the generosity, if you please, and the discretion of Congress. Each claimant asks relief upon the peculiar facts and circumstances of his individual case.

It would be impossible to frame a general law which would embrace such cases. They must, therefore, rest for their solution to a great extent upon the discretion or liberality of Congress as applied to each particular case. And unless a court should be clothed with the power to exercise this liberality and discretion, it would lack the jurisdiction necessary to a proper disposition of the case. When the rights of parties are defined by the established rules of law the courts are the proper and only tribunals to which they should be referred. But when cases are presented which lie outside of the rules of law, in the broad and undefined fields of generosity and discretion, Congress alone should judge of the propriety and measure of the relief sought. Of course, Congress would not be willing to confer upon any tribunal, however pure and able, the exercise of a discretion in which millions might be involved. It would be a surrender to another of that guardianship of the Treasury which the people expect their Representatives to exercise themselves. And besides, the Constitution gives to the citizen the right to petition Congress for a redress of grievances.

If this right means anything, Congress must be the final judge of the measure of relief, and cannot properly delegate the right of ultimate determination to any other tribunal. When a legal right exists against the Government, the claimant must go to the forum provided by law for its adjudication, and the right of petition preserved to the citizen in the Constitution must of course relate to those grievances for which no remedy has been provided in the courts of the country. The claims which now fill our committee-rooms and clog the wheels of legislation are cases of which the Court of Claims has not jurisdiction under existing laws. They have been greatly increased and multiplied by causes originating during the war and growing out of that great struggle, until to-day Congress stands appalled at their number and magnitude, and all admit the utter impossibility of ever being able to dispose of them by Congressional action alone. But the vast number of those claims, fearful and disheartening as the array is, does not constitute the only obstacle to Congress in disposing of them. They come before us based on a character of evidence which Congress does not feel willing to accept as conclusive of the facts embraced in their determination. As a general thing they stand on the simple statement of the claimant himself, supported by the *ex parte* affidavits of persons of the claimant's own selection of whose character Congress can know nothing, whose statements have never been tested by a cross-examination, and with no opportunity afforded the Government to introduce any opposing testimony whatever.

All must feel and have felt the unsatisfactory nature of such a presentation of claims for relief and of the danger of acting upon such testimony. Under such proof no means are afforded to sift the false from the true. Congress must necessarily feel, when called to pass upon a case thus authenticated, that it is making a leap in the dark, that its decision, at best, is but a guess which may or may not be correct. This embarrassment has been all along felt to be a very serious one, and various efforts have been made from time to time by committees of Congress to relieve the situation of the difficulty. With this object in view the act of February 3, 1879, was passed. That act authorized any committee of Congress to have depositions taken to evolve the real facts in the cases pending before them, and to have books and papers examined and copies thereof proved before any standing master in chancery of any circuit court of the United States within the judicial district where such testimony or evidence was to be taken. The master in chancery was empowered to issue subpœnas and attachments to compel the attendance of witnesses on behalf of either the claimant or the Government, and provision was made to have the Government properly represented in the taking of such proof. After the depositions were thus taken, it was made the duty of the master to properly certify and seal the same and transmit them to the chairman of the committee under whose order the proof was taken. The authors of this act seem to have fully realized the embarrassment and danger of being compelled to rely on *ex-parte* testimony, and they sought a way out of the trouble by clothing the committees of Congress with the powers of a court in having testimony taken.

But this failed to remove the difficulty or to afford any practical remedy. Committees of Congress of course had not the time to exercise the functions of a court to have testimony taken all over the United States in the thousands of cases before them. The statute proved a dead letter. But its authors were right in one respect; they had discovered the real thing wanted—that is, a judicial investigation of the facts in the cases on which they were called to pass. They made a mistake in imposing the duty of having this done by Congressional committees, incapacitated for other reasons besides a want of time for performing this labor. What the act of 1879 proposed to have done by committees of Congress the bill now under consideration imposes upon the Court of Claims, a tribunal, as I hope to show hereafter, admirably adapted for the cheap and expeditious performance of the work. I feel it altogether unnecessary to attempt any argument to prove the absolute necessity of some measure to accomplish the object proposed by this bill. The treatment which the honest claimant now receives at the hands of the Government would be a disgrace to the civilization of the age if it arose from a deliberate intention to wrong him. But such is not the case.

The number of cases that have found their way to Congress, because they could go nowhere else, together with the character of testimony by which they are supported, have constituted and must continue to present the great barriers to a speedy hearing. Men come here from session to session and from Congress to Congress and importune us for relief. Constituents press their Representatives by letter and otherwise for action in their cases, and without understanding the situation often censure their immediate Representative for inattention to their interests when no censure is deserved. A very few cases, by striking a breeze of good luck, sail through and reach the port of final action. Some succeed in getting their cases on the Calendar, there to sleep until the resurrection trump of a new Congress calls them from their repose to revisit again the scenes of their early life in the committee-room. Others, seemingly more fortunate, survive the malarial atmosphere of the Calendar and run the gauntlet of the House only to find "an illustrious epitaph and a marble

tomb" in the Senate. But by far the largest number sleep, like Egyptian mummies, in the dust and silence of the committee-rooms, unvisited by a ray of sunshine or the breath of Heaven.

Thus one class of claimants are doomed to roll the stone of Sisyphus; another to gaze with longing eyes and thirsty lips upon the unattainable fruit and water of Tantalus, while still another are broken on the cruel wheel of Ixion. Thus from year to year these claims drag their slow lengths along and the claimant finds no relief unless the friendly hand of death, which puts an end to all earthly cares, grants him a sweet oblivion of all anxiety for his claim before Congress. It is no honor to any government to thus treat its honest citizens. If they have meritorious claims they ought to be paid, and the claimant ought to be vouchsafed a fair and respectful hearing; but so many fraudulent claims have slipped through Congress disguised in *ex parte* affidavits that many members have come to regard a man with a claim as *prima facie* a scoundrel who is seeking to swindle the Government, and really regard it as their duty to throw every obstacle in the way of his success.

Such is briefly the situation, and although it may seem a hardship to require an honest claimant who has been praying Congress for relief for many weary years now to go to the Court of Claims to have the facts in his case investigated, he may console himself with the reflection that although it may appear a long road to travel, it is really the shortest way out of his difficulties. He may set it down as a fixed fact that if his claim remains in Congress to be disposed of here on *ex parte* affidavits he will leave whatever interest he may have in such claim to his heirs or personal representative. He may think that Congress ought long before this to have provided a tribunal into which he could go and have his case investigated, and in this opinion I fully agree with him. But the fact that it has not been done heretofore does not and cannot relieve the necessity of doing it now. And as I have before stated, Congress has been making efforts to relieve itself of these claims and to relieve the claimants.

Hon. Clarkson N. Potter, of New York, whose recent death was a national loss, introduced a bill in the Forty-fifth Congress somewhat similar in its provisions to the bill now under consideration, which was known as the Potter bill. This bill passed the House in the closing days of the Forty-fifth Congress, but failed to pass the Senate. In the Forty-sixth Congress, the late lamented Michael P. O'Connor, of South Carolina, to whose memory fitting tribute was so recently paid in this House, introduced a bill similar in its provisions to the Potter bill, but it failed to become a law, as I now remember, for want of an opportunity to have it considered by Congress. This leads me to a more detailed consideration of what is proposed to be done by the measure now before the House. The leading idea of the bill, as its title imports, is to have the facts in cases of private claims judicially ascertained and reported to Congress by a competent court, and to lay it down as the settled policy of Congress to authorize the payment of no money on a claim supported by *ex parte* testimony. It is not proposed to deny to any citizen the right to present any grievance to Congress that he may desire, but he must understand that Congress is under no obligation to grant him relief in a case where the Government has had no opportunity to cross-examine his witnesses or to introduce its own.

We say to the claimant: "If the facts you state are true, your case is worthy of consideration. We propose simply to ascertain whether the facts are as you state them. Your witnesses can tell the truth as well in the form of a deposition and under a cross-examination as they can in the form of an *ex parte* affidavit if they are honest men. And, besides, the Government from whom you seek money has as much right to present its side of the case as you have to present yours, and certainly as much right to protect itself against the perpetration of a fraud as any citizen can possibly have to commit a fraud upon it. When both you and the Government have produced your witnesses and subjected them to the test of a cross-examination, the facts thus established will afford satisfactory ground on which Congress can stand and declare whether you are entitled to relief. But Congress must first learn the facts before it can intelligently pass upon the merits of your case, and those facts it proposes to obtain not from one side, but from both, with the witnesses of both subjected to such tests, as experience has proven to be efficacious in developing truth and exposing falsehood and fraud."

I see no good reason for an honest claimant to object to this; it is fair and just to him and to the Government. Every person who has a claim against the Government of which the Court of Claims has not jurisdiction under existing laws and in respect to which he desires relief by special act is authorized before coming to Congress to file his petition in that court, stating the facts and grounds on which relief is sought, and praying the court to find the facts, and the court is directed to ascertain the facts as established by the evidence, and report the same, with a copy of the petition, to either House of Congress. The party under this provision may in the first instance make his application to the court, and the facts having been ascertained in a manner to elicit the truth and to guard against fraud, the claimant will enter Congress with his case ready for trial.

In reference to claims now pending before Congress it is provided that all such as remain undisposed of at the termination of this (the Forty-seventh) Congress in which an investigation or determination of facts is involved shall, with all papers connected therewith, be transferred to the court to have the facts in like manner investigated and reported to Congress. Should parties still elect for the future to come to Congress with their claims in the first instance before going to the Court of Claims (and under their constitutional right of petition it is not denied they may do this) the bill gives to any committee of Congress to which such claim may be referred, if it involves an investigation and determination of facts, the power to send the claim to the Court of Claims to have the facts judicially ascertained and reported to Congress. It may be said that these provisions of the bill will entail some expense upon the claimant. This may be true, but the expense will be far less than many claimants now incur who in hundreds of instances put their claims into the hands of claim agents who agree to collect one-half for the other.

It is true the contract generally stipulates that if nothing is collected nothing is to be paid by the claimant. But if the claimant has an honest claim which will stand the test of judicial investigation he can much better afford to incur the small expense of having his proof taken, than to agree to give a claim agent half of it to collect it. If his claim is not a meritorious one, of course he could better afford to employ a claim agent on the terms named, and take his chances to elude the vigilance of Congress under cover of *ex parte* affidavits. The Court of Claims is the cheapest tribunal to which a claimant could be sent, and affords him all the conveniences possible in the nature of the case. In that court there are no costs or fees taxed or allowed, and parties have no bills of cost to pay whether they are successful or unsuccessful. Of course parties will have to pay the costs of taking the depositions of their own witnesses and this is all the expense they need incur. When their depositions are taken they are printed at the Government Printing Office and at the Government's expense. Under the practice of the court, parties living at a distance from the city of Washington can prosecute their claims as well as if they lived in the city where the court holds its sessions. Upon this point I beg leave to again quote from the article of Judge Richardson in the Southern Law Review. He says:

When a claimant has filed his petition, which he may do by sending it to the clerk of the court by mail or otherwise, he may at his leisure and convenience go on taking the depositions of his witnesses whenever and wherever he can find them, first giving notice to the Attorney-General, that he may be present by himself or by an assistant to cross-examine them.

It seems to me that it would be impossible to furnish the claimant with a less expensive or more convenient tribunal in which to have the facts which support his claim established. And there can certainly be no complaint on the part of the Government on the ground of expense, for the claims go before a court already established, and the Government will not be out a dollar additional in the way of providing this tribunal to relieve Congress of the burden that now rests upon it. But while the method proposed is just to both the claimant and the Government, will it have the effect to relieve Congress? Upon this point I have no doubt whatever. In the first place the number of claimants will diminish marvelously. The fraudulent claimant will

Fold his tents, like the Arabs,
And as silently steal away.

He will never ask or permit the light of a judicial investigation to be turned upon the affidavits which have been concocted and cooked in the back room of a claim agent's office. He will shun the exposure and the penalty of detected fraud. His witnesses will respectfully decline to face the music when they reflect that an indictment may follow the crime of perjury. I beg leave to call the attention of the House to a statement of Chief-Justice Drake of the Court of Claims, who appeared before the Committee on Reform in the Civil Service at their request during the investigation of this subject. It was thought doubtful whether that court would be able to dispose of the large number of cases that would be precipitated upon it by this bill, and the Chief-Justice was interrogated upon this point as follows:

The CHAIRMAN. Will you state to the committee the ability and capacity of the Court of Claims to take charge of all these matters that may be thrown upon it? We have now pending before Congress 3,763 private claims. Suppose we were to throw that avalanche of claims into your court, what would be the effect on the business of the court?

Chief-Justice DRAKE. When the Court of Claims was established very much such an avalanche as that came down from the two Houses of Congress. I was not then a member of the court, but I have been told that when we speak of the quantities of papers that came there by any enumeration of bushels it would convey an inadequate idea of the amount of business that was precipitated on the court. And yet, if you were to go back and examine the amount of business which the court transacted from that great avalanche in the first five years, you would see that in some way or other the avalanche was most tremendously diminished. The number of cases sent down to the court was in some peculiar way enormously diminished, and most of them were never tried. The same thing would be the case now. I have no doubt myself that for a year or two after the passage of such an act (particularly if you should send all the pending claims to the Court of Claims) there would be pretty hard work for the court, but at the end of two years or less we should sift out from all this mass the only claims that the parties were willing to attempt to prosecute in the court. It would be pretty hard work for a year or two to operate on that portion of the great mass, but still we could get through with it.

In the further prosecution of the inquiry upon this subject the following took place:

Mr. HOUSE. If we were to send 2,500 claims to the Court of Claims and require parties to file their petitions there, do you think that out of that number 500 petitions would ever be filed?

Chief-Justice DRAKE. I do not. I do not believe that more than one claimant in twenty would ever file a petition in the Court of Claims.

But not only would the number of claims be thus greatly dimin-

ished under the provisions of this bill but the labors of Congress would be greatly simplified and abridged in reference to those that remained. The court will find all the facts of each case and report their findings in the nature of a special verdict to Congress. Congress will thus be relieved of all the labor of investigating and reporting upon the facts of each case. All that will be done and embodied in the report of the court. The whole case will thus be presented in a brief and succinct form—the whole matter will be in a nutshell, and there will be but little trouble on the part of Congress in determining the question of what, if any, relief should be granted. For it will be observed that this bill avoids the mistake made in the act establishing the Court of Claims, which required all the evidence, brief of counsel, opinions of the court, &c., to be reported to Congress by the court, thus entailing upon Congress the labor of a thorough examination of all the facts of each case, as well as the correctness of the opinion of the court. The report of the court as to what facts are established by the evidence Congress accepts as conclusive. The court is required to give no opinion on the merits of the case; for when the facts are settled and laid before Congress it does not desire the opinion of any court as to how it should exercise its discretion in the premises. That is a matter which Congress will take care of itself, and the opinion of any court in the premises would be manifestly indelicate, if not improper.

There is a provision in the bill to the effect that if the court should find among the cases referred to it any of a nature of which under existing laws they have jurisdiction to render judgment, they are authorized to do so, and thus dispose of such cases without troubling Congress with them any further.

There is also a provision with respect to what are known as war claims. In all cases of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war, or for the destruction of or damage to property by any of said forces, the petition must allege the loyalty of the claimant to the Government of the United States, and the fact of loyalty is required to be found by the court together with the other facts in the case. It has been the settled policy of Congress to pay none but loyal men for such losses, and this provision of the bill is intended to preserve that policy. In reference to these war claims, I desire from the stand-point of a Southern man to say a word.

There is no subject that ever came before Congress with respect to which there seems to have been a more widespread and general misapprehension among the Northern people than this matter of the payment of war claims by Congress. Southern Representatives have been held up before the Northern people as eager to make raids upon the Treasury to pay this class of claimants amounts equal to, if not exceeding, the national debt. This absurd and unfounded charge has been made to do duty in more than one political campaign, and has been freely made by men to whose intelligence and information I feel I would be paying a poor compliment if I were to say they really believed what they asserted. I have seen my own name paraded in campaign literature, together with the names of other Southern Representatives, with the bills and memorials which we had severally introduced into Congress, with the amounts claimed, and the aggregate held up before the people as the measure of the inroads they might expect upon the Treasury from this direction in case the Democratic party should come into power. Now, what are the plain and simple facts in reference to this matter?

I will take my own case, not because I wish to talk about myself, but because my case represents cases of other Southern members. When I entered Congress I found a great many war claims pending from my district; all, or the most of them having been introduced by Republican members from my State. My constituents applied to me to reintroduce their bills or petitions and have them referred to the proper committee. They claimed to have meritorious cases. All they asked of me as their Representative was to see that their cases got before the committee, where they could be investigated. Of course I knew nothing of the merits of their cases. That was the business of the committee to whom they were referred to ascertain and determine. No member of Congress could be justified in denying a constituent a request so reasonable and proper in itself. For if he should refuse to perform such a service as this he would deny to his constituent the right to have his claim investigated at all.

Of course I never read or undertook to read the voluminous papers that frequently accompanied those claims, and certainly never addressed a committee of this House urging a favorable report on such claims, as it would have been improper for me to do so. I have at times, on receiving letters from my constituents, gone to the chairman of the committee having charge of the claims and requested him to have the same investigated and reported to the House. Whether that report would be favorable or adverse, of course I did not and could not know. Now, this is the whole of the wild and extravagant charges that have caused so many well-meaning people of the North to be troubled in their dreams. The idea that there ever was among the masses of the Southern people any general anxiety or concern about the payment of such claims which constituted a public opinion on the subject is so thoroughly absurd as to banish all respect for the mind that could conceive it or entertain it seriously. It requires but a moment's reflection to expose the silliness and absurdity of such a fancy. Not one in ten thousand of the people of the South ever applied to Congress for the payment of war losses.

Now, why the other nine thousand nine hundred and ninety-nine who have never asked Congress for a dollar, but who lost as much by the war perhaps as the one who has applied, should suffer themselves to be broken of their rest by anxious solicitude to see that solitary claimant succeed, especially when he fought on the other side, is just one of those things, as Lord Dundreary would say, which "no fellah can find out." I know there are those who believe that there are no loyal claimants south of the Ohio River. This is a mistake. There are men in the South—not a great many, it is true, comparatively speaking, but still quite a number—who were as loyal as any man in the North, and perhaps more so, as their surroundings required an exhibition of moral courage in adhering to their convictions which the Northern man was not called upon to display. But I dismiss this subject of Southern war claims with the hope that hereafter a claimant's geographical locality will be no bar to a just and impartial hearing before the American Congress, and that the campaign material on the subject of these claims be allowed to decay amid the *débris* and rubbish of past political conflicts.

The Executive Departments of the Government are also greatly crowded with private claims, and are calling on Congress for relief from the pressure upon them.

In his report to Congress made at the session commencing on the first Monday of December, 1877, the Secretary of the Treasury used upon this subject the following language:

> The attention of Congress is called to the laws imposing upon this Department the adjudication of a multitude of claims. Its organization is admirably adapted for the investigation and statement of accounts accruing in the ordinary course of current business, but it is not adapted to the investigation of claims long since accrued, and supported in most cases by *ex parte* affidavits. The Department has no authority to cross-examine witnesses, no agents to send to examine into alleged facts, and no facilities, such as are in common use by courts, to ascertain truth and expose falsehood. It is respectfully suggested that this class of claims, not already acted upon, be transferred from the Treasury Department, and its business of accounting be confined to current accounts, payable from appropriations made within a short period of time.

In his report made in December, 1878, the Secretary of the Treasury again calls the attention of Congress to this important subject in the following language:

> The attention of Congress is again called to the necessity of some legislation as to the adjudication of claims which are now within the jurisdiction of this Department.
>
> While the Department is well organized for the investigation of accounts accruing in the ordinary course of current business, it is not adapted to the examination of old and disputed claims of a different character.
>
> For the proper investigation of such claims the methods adopted in all our courts for ascertaining the truth are undoubtedly the best. For this purpose a tribunal which will require the best evidence of which the nature of the case will admit, the production of original papers rather than pretended copies, the sworn statement of the witness himself to facts in his own knowledge, and not the hearsay of third parties, the examination and cross-examination of the witness, not his *ex parte* statement privately taken, a public hearing, and a public record of proceedings open to inspection, is essential.
>
> These are some of the safeguards which the experience of the wisest legislators has placed around the judicial investigation of questions of law and fact.
>
> It is evident that this Department cannot furnish these safeguards; and a provision of law which will relieve the Department of all important disputed questions of law and fact is recommended. The Court of Claims is a tribunal well qualified for such jurisdiction. It has the prestige of a court of justice; its judges are appointed for life, and transact their business deliberately, systematically, and publicly. They are governed by the ordinary rules of law, and their decisions are of record, with an appeal in proper cases to the Supreme Court of the United States.

In his report made to the Forty-sixth Congress the attention of Congress is again invited to this subject in the following language:

> The need of some legislation for the adjudication of claims which are now within the jurisdiction of this Department has been called in former reports to the attention of Congress. Proper methods for investigating claims such as are used in courts of justice are not within the power of the Department. A tribunal which may require the best evidence which the nature of the case admits, the cross-examination of witnesses instead of *ex parte* statements, a public hearing and a public record of proceedings, is essential for the proper adjustment of such claims.
>
> Section 1063 of the Revised Statutes contains a provision for sending to the Court of Claims certain disputed cases arising in the Departments. A general provision of law by which all important disputed questions of law or fact might be remitted to that tribunal for trial would greatly relieve the officers of this Department and tend to promote the ends of justice. It may be assumed that the methods adopted by all courts of justice for ascertaining the truth best subserve that purpose.

The present Secretary of the Treasury, in his report to this Congress, uses the following language on this subject:

> The claims against the Government presented to this Department often involve important disputed questions of law or fact, which require for their correct decision the taking of depositions and the cross-examination of witnesses, and sometimes of the parties themselves. For this no provision is made by law. Authority from Congress to refer any such claims as the Secretary may think proper to the Court of Claims would give to the claimants and to the Government a proper judicial trial and judgment; which would not only do justice to the parties but prevent re-examinations which are now urged upon every change of departmental officers.

There is a provision in the bill intended to relieve this pressure upon the Departments by enabling them to send cases before them to the Court of Claims for investigation, which it is believed will in a great measure remove the embarrassment under which they now labor.

Another important provision in the bill relates to the claims of aliens against our Government. It authorizes the Secretary of State, with the consent of the representative of the Government of the

alien, to refer all such claims, founded on treaties or other international obligation, to the Court of Claims, to be heard upon the principles of justice and international law, and the court is authorized to render judgment in accordance with those principles. Either party is allowed an appeal to the Supreme Court of the United States when the amount in controversy is three thousand dollars or more. The propriety of giving this jurisdiction to some court cannot, I think, be seriously questioned when such a method of disposing of cases of this character is compared with the slow, tedious, troublesome, and expensive procedure of mixed commissions to adjudicate them.

These temporary commissions cannot be conveniently appointed until a sufficient amount of claims has accumulated to justify it, thus entailing upon the claimant a long and perhaps ruinous delay. Composed as they are of different individuals selected here and there for the special occasion, they cannot of course be expected by their decisions to build up any uniform system or rules of international law. But the Court of Claims, invested with authority to try all these questions of international law arising out of the claims of aliens, with an appeal allowed to the Supreme Court from their decisions in all important cases, would insure uniformity of decision, and in the course of time a very valuable and important system of international law would be established. This plan would be far more economical than a mixed commission could possibly be. And another consideration to which we cannot be insensible consists in the fact that most if not all the governments with which we have commercial relations have tribunals before which our citizens are allowed to adjudicate their claims against those governments.

There are other minor provisions of the bill under consideration to which I desired to call attention, but deem it not important to do so, as I have already occupied sufficient time upon the subject. Of course I am not sanguine enough to believe that this bill will prove to be perfect in its operation and that no defects will be developed calling for amendment in the future; but I have but little doubt, if it is adopted by Congress and becomes a law, it will result in greatly relieving the present embarrassing situation to both Congress and the claimants before it, corrected and perfected as it may hereafter be in such particulars as experience may show to be necessary.

Mr. HOUK. Mr. Speaker, no more important matter can be brought to the attention of Congress than the question of providing some means of adjusting claims against the United States. It has been assumed by law writers that wherever a right of any kind exists there is a remedy to be found; that wherever a wrong has been committed there is a means of redressing that wrong. But it has occurred to me that these writers had but little conception of the genius and impulse of an American Congress. If they had known a little of the history and character of the American Congress for the last twenty years they would have written their law very differently. They would have said that Governments should provide remedies against itself as well as against individuals. But such has not been the case in this country. If they had been informed in regard to the present condition of things confronting the authorities of this Government and touching the rights of the people, they would have made many important exceptions to the rule thus laid down. Look at the condition of the business of this House. Look at the thousands of claims pending here against the United States. All manner of private claims are being presented for the consideration of Congress. And this body has neither given relief through special legislation nor provided for the adjustment of these claims by a general law conferring jurisdiction on some tribunal or Department of the Government to hear and determine them. Indeed it is almost universally admitted that nothing is more impossible in all the scope of legislation than for Congress to resolve itself into a kind of court to adjudicate the private rights of individuals, and to permit the existing state of things to continue virtually and practically amounts to a policy, on the part of Congress, of an absolute denial of justice to many citizens of the Republic. There are several thousand bills for the relief of individuals now before the several committees of the two Houses of Congress. Some of these are just beyond all doubt. Perhaps many are unjust. But can the great Government of the United States afford to deny its citizens the same redress against itself that it provides by its Constitution and laws one citizen shall have against another citizen?

If one citizen infringes on the rights of another the courts of the country are open to redress the wrong. If a contract exists between two or more citizens, by either express stipulation or implication of law, the Government, State or national, furnishes a tribunal to enforce the rights of the parties; and I believe the Government of the United States enjoys singular distinction in denying the right of its citizens to enforce the collection of an honest debt against itself.

Whatever may have been the ancient law of nations on this subject, the modern rule, certainly in free countries, has been established to give the citizen every right against the government which they have against each other. And this brings us to discuss the right of the Government to refuse to permit itself to be sued in its own courts. That it has the power to say it will not be sued I will not deny, but I affirm that the assertion of that power is wrong. This idea that the Government cannot be sued does not belong to free America; it does not belong to any free government; it has no place in a government where all of its citizens are equal among themselves and where the government has no rights not conferred through the action of its citizens. The ancient doctrine that the government could not be sued was born of kingcraft and personal government; it originated from the so-called divine right of kings. It was founded in the fallacy that the king could do no wrong, and it is now exploded everywhere except in free America and a few of the unenlightened governments of the Old World. This political paradox, this paradox in modern government, should no longer exist in a country like this. The modern practice is to open the courts of the government to the citizen, especially in a representative republic like ours, where it simply amounts to the individual citizen seeking justice against the aggregated citizenship of the state.

But we are told that very many of these claims, provision to adjust and pay which is now asked, are "war claims;" that they originated during the war to suppress the rebellion, and that many of them are unjust, fraudulent, and exaggerated. There are many answers to this assumption, each of them conclusive in their character. For because some man presents a fraudulant claim, possibly backed by perjury, is that any reason why the man who presents his claim, established beyond doubt, and admitted so on the part of the Government itself, should not be paid. I insist it is not.

Let us look this subject squarely in the face. And in order to get at the real issue involved in the discussion of "war claims" let us examine the matter in its true light and bearing on the obligations of the Government. What does it take to constitute "a war claim?" And how many kinds of "war claims" exist? Without stopping to define these questions with legal nicety and technical distinction, and without essaying to enumerate and classify each case in its separate character and outlines, I must be permitted to call attention to the fact that there are now, and have been from time to time, a variety of "war claims" which have been recognized in the most solemn manner, and none of them are any more founded in legal principles and moral right than are those claims which are now sought to be outlawed by the use of a prefix and the exclamation of "war claims," as though that carried with it the blast of death.

When citizens enter into contracts the courts invariably enforce them; but when claims, and especially of that class which I may more particularly refer to hereafter, are presented, then every conceivable objection is presented to them. If they are legal on one point, then there is something urged against them on another. If it is all right here, then we are told there is some error somewhere else. I think, for one, the time has come when this quibbling by a great Government should stop, and especially when it is quibbling against the poverty-stricken, loyal citizens of the country. Instead of oppressing, the Government ought to be prompt to do justice, and should come to the relief of these people, not only in the spirit of justice, but in the spirit of charity.

We are told that these war claims cannot be paid, that it was in the time of war, and whatever was done by the Army for the use of the Government, no matter by whom taken or when taken or under what circumstances taken, they are all war claims, and that war claims cannot be paid under the laws of war. Such doctrine does not belong to this Government. The doctrine that the Government is not bound to reimburse every one of its loyal citizens never was conceived as attached to this Government until recently. Such a doctrine cannot be found in any law-book by any law-writer who had ability enough to conduct an ordinary case in a police court. [Laughter.]

Whatever may have been said and whatever may have been the rule under the ancient law of nations on the subject, the modern rule certainly is, and has been in all free countries, that the citizen shall be given the right to pursue his claim against the Government for any obligation it is under to him. This, I say, is the modern rule which now obtains almost everywhere except in this country, and the modern practice has been consistent with the modern rule, that the citizen shall be reimbursed for whatever has been taken from him. With few exceptions there has been provision made for paying this character of claims.

There is another thought I wish to express. The idea of this great Government providing that it may despoil its citizen, seize his property, and use it, probably that which is absolutely necessary to provide for his wife and children, and there is no power by which he can go into the court and seek redress and be paid is one opposed to the civilization of the age. The idea that in time of war the laws are silent and the Government is entitled to take for its own particular use whatever it pleases without payment, the idea that the Government shall not be sued in connection with the other idea, to which I have just called your attention, that the Government has the right to take whatever it may need from its citizens without payment because it is done in time of war, these doctrines come from that same old claim of the divine right of kings, that everything belongs to him and not to the people. This same idea that the Government cannot be sued grows out of this same kingcraft, that the king can do no wrong and that this Government is the king.

What sort of application can you make of any such doctrine as that in this country? Who is king here? The supreme sovereign power is in the people. What, then, is the suit of a citizen against his Government to redress a wrong inflicted upon him? It is simply one citizen suing the aggregate citizenship of the country in order that a citizen who is equal to every other citizen of the country shall receive his rights and have redress of his wrong. We are told

that very many of these claims are war claims, that they originated during the war to suppress the rebellion, and that many of them are unjust.

Here I would stop to inquire what is a war claim? And to this I desire the attention of the House. I ask every lawyer, every member of this body, what is a war claim? Is it confined to the claims of those poor people who are presenting their demands now to the Government for redress? Not at all. Every claim, the great majority of the obligations of the Government now outstanding are as much war claims as those of the poor man who asks to be paid for a horse taken from his farm for the use of the Army.

Gentlemen should remember that the bonds of the Government, which are acknowledged to be legal and just obligations, and to pay which to the uttermost farthing the honor of the Government is pledged, are but the outstanding evidences of a part of the war debt, and, in the fullest and largest sense, nothing more nor less than "war claims."

How did these "war claims" originate, and I will add by way of inquiry, what is the difference between these and the "war claims" which seem to have such a horrifying effect on certain politicians of the country? If I may be indulged to contrast these different kinds of "war claims," I will suggest this difference growing out of their sectional origin.

Whenever a citizen of a so-called loyal State—and I will discuss State loyalty in contradistinction to individual loyalty a little further along—whenever a citizen of the North had supplies for sale—and mark you, unlike in the case of the Southern and border States they were never forced to give up their property for the use of the Army—whenever they had supplies for sale they contracted them to a quartermaster, followed them to the depot, and received their vouchers, which they cashed, and immediately invested the proceeds in United States gold-bearing bonds, and he has been drawing his gold interest ever since. They received war prices for their supplies, and bought Government bonds with the money, receiving a bond equal to gold for a depreciated currency, thus securing anywhere from 150 to 275 per cent. for every 100 per cent. of actual outlay. While the soldier fought for a greenback dollar worth less than half for which it called, the Northern man who furnished supplies to the Army had the good fortune to turn his property into a bond worth more than twice the amount realized by the soldier for his money.

And so of the Union people of the South. They were unfortunate. I would not make odious comparisons, nor would I indulge in invidious distinctions, but I know I will be pardoned for reminding the House of the ill fortune of "Poor Tray," who was found in bad company. And such was the fate of the Union people of the South. The United States Army was ordered by the national authorities to forage upon and live off the country as it moved South, and it was impossible for its officers to discriminate at the time between the loyal and disloyal whose property was taken and used, and the result was that the loyal whose property was thus taken were told to wait and thereafter present their claims, prove their loyalty, and be paid.

While the "war claim" of the Northern man was thus put in the shape of a bond, the "war claim" of the Southern Unionist remained as an unwritten but equally just obligation against the Government. And now, notwithstanding the Union men of the South were promised payment on proof of loyalty, when they ask the Government to give them their just compensation for their property which was taken from them and used they are met with the cry of "War claim!" "War claim!"

The unwritten debt of the war to suppress the rebellion is not only as binding on the Government as that part of the war debt which is evidenced by United States bonds, but it is as well founded in law as if each claimant held a written promise to pay, and is as sacred an obligation as any resting on the nation, unless it may be the pension of the widow and orphan, which is planted in the grave of the dead husband and father.

But who are these border-State Union men now asking for justice at the hands of their Government? It is useless for me to repeat here what is so well known and has been so often much better expressed than I can possibly hope to express it, that the Union men of the South are equally deserving with the men of the North who stood by the Union; yet I must say that this truth has not heretofore, but as I think should hereafter, receive peculiar emphasis in dealing with them. It was an easy thing to be loyal in the North. It was quite another thing to be loyal in the South. And yet the South gave three-quarters of a million of white soldiers to the Union Army. And it is said that, counting both white and colored, the Southern States gave more men to the Federal than to the confederate army. I notice objection has been made in some of the newspapers that Tennessee has a large number of "war claims," and I saw one complaint that my State had a large number in the bill reported by me from the Committee on War Claims. And such an objection was made on the floor of the House when the bill finally passed without even a division.

The statement of fact has some foundation, but the implication of wrong is wholly causeless.

And right here let me say to my Northern friends that if the South had been solid there would have been two governments in this country instead of one. The part of the country which is attempted to be outlawed by the assumed principle that because a man happened to live in an insurrectionary country he shall not be paid at all gave to the Union Army three-fourths of a million of white soldiers. I have the facts here somewhere which I can show. In addition to that let me call attention to another fact, that the South gave to the Union Army more soldiers to fight under the Union flag than it gave to the confederacy to fight under the confederate flag. We cannot have a war claim paid if it is down South. Just raise the question of a claim, and the very first thing you hear is this cry of war claim; it is the first question that is asked; it is the only argument that is offered.

On this question of disloyal States I want to make some remarks. I do not know that they have any practical applicability to this bill, but I want to call attention to the fallacy—the legal fallacy—of talking about disloyal States. There is no such thing as a disloyal State. There never has been any such thing as a disloyal State of the Union under our form of government.

The individual citizens of the States may become disloyal, but the States in their organic capacity cannot become disloyal. It is an impossibility for them to do so; it is an unmeaning term and has no significance whatever. You may overthrow a State government for a time, its functions with reference to the Federal Government may be temporarily suspended, but the moment it is rehabilitated with its powers of a State it becomes loyal. It can have no effect upon the State as a State. It can have an effect upon the individuals who have temporarily overthrown it, but it has no effect, so far as citizenship under the Government is concerned, when it is rehabilitated with its full powers as a State, because the State assumes the same position it held before it fell and becomes at once *ipso facto* under the Constitution a State neither loyal nor disloyal but simply a State under the Federal Government belonging to the Federal power.

And there may have been, and doubtless are, many principles of international law from which precedents may be drawn on which to found this absurd doctrine of the "loyalty" and "disloyalty" of States. I scout the idea of anything of the kind under the structure of our Government. A State could not become "disloyal." The people of a State could become disloyal, in whole or in part. But the disloyalty attaches to the individuals who committed the crime, and not to the State or community as a whole, unless the whole body of the people by their individual acts perpetrated distinctive offenses. International law, which is applicable to foreign states and wholly independent governments, has no place under our Federal system. The powers of government here are vested in the nation and not in the State.

Suppose there could be such a thing as this. I will only argue this for a moment. Suppose it were possible, and suppose it were legal, for those assuming to represent a State—a Legislature is not the State; the governor is not the State; the President of the United States is not the Government; Congress is not the Government; the great power of the people behind them is the Government. Now, suppose the agents whom the people for the time being have selected to represent them—suppose they convene, pass laws, and provide—to do what? provide to make their State disloyal. Can it be done? Can the vote of the people make it disloyal? It can make those who voted for disloyalty traitors to their State and their country, but it can no more affect the nature of the government, that intangible something that none of us can see, that intangible something which exists by virtue of the power of the people and not by virtue of the power of any constitution of a State, only as the people have granted the temporary power to organize for the purpose of adding an additional power to its own government. But suppose that might be true; suppose the law was that a State could vote itself out of the Union, how could you declare my State disloyal? Where would you find a court within the limits of the United States that would declare the State of Tennessee a disloyal State if the issue was properly made? Even if this—I was about to say law—even if this position was law, a court in finding whether the State of Tennessee was loyal or disloyal would have to go back and inquire the status of her people, would it not?

Now, what was that status? I say Tennessee never was a rebel State. I say a majority of its citizens never breathed a disloyal breath in their lives; and why do I say so? In 1860 Lincoln was elected, and certain parties said that the election of a black Republican was sufficient cause for going out of the Union. South Carolina, Georgia, Louisiana, Mississippi, and other States all around us voted and said they were out of the Union. They sent emissaries among us for the purpose of dragging Tennessee after them into the condition that they called being out of the Union. On the 9th day of February, 1861, the vote was taken. This question was discussed from one end of the State to the other. It was the ablest canvass—gentlemen on the other side of the House will bear witness to what I say—it was the ablest campaign ever conducted in the State of Tennessee. Everybody was heard. Everybody then was free. The whole question of the rights of the Federal Government, and the propriety of secession because of Mr. Lincoln's election, and all these questions that have been so long agitated since, were discussed with an ability that I never expect to live to see again, because some of our great men, and most of them, have fallen.

What was the result? The people went to the ballot-box and with cool deliberation, without coercion, voted to remain in the Union by

over 61,500 votes. What next? The gentleman who was then governor of Tennessee saw proper to convene the Legislature in extraordinary session. Emissaries and ministers plenipotentiary were immediately sent to negotiate with our State administration, with the State as they called it. The State had acted in February. The people were the State. Their agents were false. They sent, as I have said, emissaries to negotiate, and finally finding it would not do to trust to another vote of the people, the then governor of the State appointed a military board to negotiate with Henry W. Hilliard, who was the rebel emissary sent by the so-called confederate government at Montgomery, Alabama. Perhaps some of you remember his name, Henry W. Hilliard, who has recently come home. I hope no more of the same kind will be sent back to represent the United States.

Through Henry W. Hilliard and this military board a league was entered into. They called it the military league. This military board was appointed by the governor, who at that hour was being denounced everywhere for what he was doing. They entered into some sort of a league with Mr. Henry W. Hilliard, which, by some mysterious process that I never understood, was supposed to lash Tennessee on to the Southern confederacy.

What else? The people were still loyal; the people were still true; the people would have voted on that day as readily for the Union as they had done on the 9th day of February. But, under authority of the "league" the governor and this military board—the State was not out of the Union—as they called it, they could not call troops out as confederate troops, but they organized 55,000 troops under the direction of this military board and loaned them to the Southern confederacy for temporary service. The use they were put to was that they should go up into East Tennessee, where there were a great many Union people, to be camped out in the gaps of the mountains, where nobody had ever made a camp before in the world except to hunt deer or wild turkeys. What was this done for? Why, because the Union people of East Tennessee had then seen that their hopes were gone for the time being, so far as their opposition to the establishment of the Southern confederacy existed; that they could no longer live in Tennessee as peaceable citizens. And these camps were placed there to prevent their exit to the State of my friend across the aisle, old Kentucky. And I may say I think the gentleman across the aisle [Mr. CARLISLE] was about the first Kentuckian I became acquainted with.

What else? There were these 55,000 troops put to this use. Alabama, Mississippi, Louisiana, Georgia, and other States sent troops into East Tennessee—for what? I do not remember why they then said they sent them there, but they were sent from Alabama, Louisiana, Mississippi, and Georgia. I do not know whether there were any from South Carolina or not. But they were from five or six Southern States. Their troops were sent into East Tennessee and they were scattered along the mountain passes and in the neighborhoods throughout East Tennessee, where lived the largest number of Union men, for the purpose of seeing that every man who wished to vote to go out of the Union should vote with perfect freedom, and that every Union man who came to the polls should vote according to indications or command of the soldiers, who, as a rule, were little less than a mob.

After all this was done, and I am detailing these things because I want to put this history on the record here. I know you can find it, or much of it, in the Congressional Library, if you will only hunt it up. After all these means had been taken "to have a fair election," what was done? You know that they were always opposed to troops at the polls. And these means were resorted to in order that the Union majority of 61,500 should not be overriden by any wrongful process, but that there should be absolute protection given to every man who wanted to vote.

After these troops were scattered all around in convenient localities where they would do the most good, another election was ordered. We were solemnly told under these circumstances to go to the polls on the 8th day of June and exercise our right of suffrage as freemen, and say whether we were still willing to remain in the Union. Of course under the circumstances that was "a free election."

Now, I say, put all these facts before a court, the fact of the majority that was given for the Union in February, every fact which I have stated—put all those facts in evidence before a court and authorize it to say whether Tennessee ever was out of the Union or ever did anything which would place it in the category of disloyal States, and I say that the court upon its conscience and upon the law of the land would declare that Tennessee never was a rebel State. Therefore I insist that if there ever was any plausibility in the doctrine that a State could become disloyal, Tennessee never became so, and always was in law and fact, and upon every principle that can be adduced, a loyal State to all intents and purposes.

This was the position originally taken by the leaders of the Republican party. But afterward there was some sort of a decision which I shall not characterize, some political excitement that came up, some fear that there would be a war debt settled on the Government; politics intervened in the mean time, and the result was that the decree went forth that the head of the Union men in the South had to fall in order to save somebody in the North.

Before leaving this question I wish to add a word or two; it may hit somewhere; if it does I cannot help it. There is a very great difference shown when you mention a claim as to whether it originated down South or not. The question of loyalty is not the question that first comes up. That is not the first question. It is, Where does the claimant live? Well, up in Maine. Did he really have this property, and what was the value of it? Let us talk about this thing, and see how it looks, and see if there is any foundation for the claim.

Another case comes along. Where is this claimant from? Who owns this claim? It is a man down in Tennessee. Was he loyal? That is the first question. Now I do not believe, and I say it here before God, I do not believe in this method and manner of investigating claims. I do not think many who have had jurisdiction here in Washington for the investigation of these claims have been just and fair. I do not believe the same justice has been meted out to the Union men of the South that has been meted out to the Union men of the North. All the records look the other way.

You bring up a claim here and say, here is a war claim. You are asked, how old is it? Well, it is a pretty old claim; it arose during the war, and cannot help being old. Has it ever been before any Department? Yes, it has been before a Department and been rejected. What for? Now I tell you that in very many cases claims before the Departments have been rejected on some purely technical point. And we are told, if this matter has once been rejected, that the man has had his day in court and ought not to have another.

I have heard something here this afternoon about the Southern claims commission and the law establishing that commission. Now I have as much respect for the *personnel* of that commission as I have for any three men who ever lived. But I know that hundreds of unjust judgments were rendered by that commission; I state it here upon my responsibility. I say to any gentleman on this floor who may join issue with me as a lawyer, that he may take the cases miscellaneously and look over them, and he will find that in a great majority of them they were imperfectly made out and were rejected on some little informal point and the claimant impoverished. There was a case rejected by that tribunal for disloyalty where the man had lost his eyesight while scouting for the Federal Army. When he comes here to Congress he is told, "Oh, you had your day in court; the commissioners were just men, and they rejected your claim." I could enumerate many other cases.

Without pursuing further the thought I was pursuing I will devote the remainder of my time to the consideration of the bill before the House. I want to say that so far as I am concerned I will vote for no bill that opens the door for the payment of any claimant who was disloyal. Many of my best friends took the other side, but they took the risk. It was a question whether they would destroy the Government or lose what they had.

At the end of the war the Government had the undoubted right, as I believe, to have confiscated every dollar's worth of property belonging to the belligerents, to the disloyal people of the South. It elected not to do so, and I am glad of it. But that which the rebel lost during this struggle is gone, and I am unwilling now to turn around and restore that which they lost themselves while they were engaged in an effort to destroy the Union.

In my country, when your armies started in there, they were ordered to forage on the people. And our Union people down there in East Tennessee actually believed that the Government would rather give them something than take away from them what little they had. So they were willing to give up to the Army everything they had to spare, as the word goes, and more, too.

General Burnside, who was in command of the Army, soon organized a commission, by which, if he had remained there, probably all of these men would have been paid. But General Burnside was soon withdrawn from there and the commission was disbanded. The papers in the cases of the claimants became scattered about among claim agents, and not long after our State, through its Legislature, passed a law creating a board of commissioners to examine these claims with a view to the State itself paying them and then applying to Congress for reimbursement. They all filed their claims again. They went first before the Burnside commission, then before the so-called Brownlow commission. About the time the State would have been ready to take action and pay these claimants, with the expectation of seeking reimbursement from Congress, our friends on the other side came into power. The Democratic party coming into power, enacted a law that the secretary of state should send these claims back to the clerk of the county court in each county from which they originated, the claims having been first investigated in the counties. Many of the claimants had to pay for the return claims, although no law on the statute-book authorized the payment of such a fee. Many of these people had spent money in preparing their cases before the Burnside commission and before the Brownlow commission. After that some of them commenced filing their claims in the Quartermaster-General's Department; some went before the Southern claims commission; but the great body of these claimants had become too poor to put in their claims asking payment for a horse or a hog or a few bushels of corn that had been taken from them. Many of them perhaps would be unable to-day to pay the fee of $5 if the successful prosecution of their claims depended upon it. But if a law were passed in which they could have confidence, they could find friends and neighbors who would again help them.

But many of these claimants, after they had failed the second time, became disheartened. And let me mention one reason for this dis-

couragement. The demagogues of the Democratic party were going about over the country saying to Union people, "Why are you voting the Republican ticket? That party does not think any more of you than they do of us; you have claims against the Government, but they will never pay you a dollar; have they not fooled you twice already?" In a great many instances such arguments were successful; in many instances perhaps the Democratic party gained converts to their cause. I say to-day that if the Republican party expects to make gains and build itself up in the border States the best, the highest, the noblest thing it can do is to provide through the action of a Republican Congress the means by which these poor men of the border States may receive the few dollars due them for property taken from them, due them as justly as your money would be due you if I should borrow a dollar from you to-day.

Talk about these claims not being just! I know how things were done. There is not an Army officer in the land who does not know, there is not a man who traversed Kentucky, Tennessee, and that southern country who does not know precisely how things went on. We know that the Army was in absolute need of the very things which it received from these people and used. I do not ask pay for pillage; I do not ask pay for what the soldiers stole if anything; but I do ask that the Government shall pay for what it received and enjoyed—for what aided it in putting down the rebellion.

I want to say another word to my Republican friends. I carried my district by over 8,000 votes; but if all my constituents could be in this gallery and hear the debates when some little claim comes up for some poor man who is perhaps in need, it is very doubtful whether that district could be carried; it would certainly lessen the ardor of that patriotic people and render it uncertain for the Republican party. Not that we vote for money; not that we vote for a consideration; but the people of my country vote for that which they believe to be justice, and they think manifest injustice is being done to them by withholding payment of the sums that are due to them.

Mr. Speaker, one further remark and I shall soon conclude. The policy of the United States Government for the past twenty years has been a policy of absolute, unconditional denial of justice to a very large number of its citizens. I appeal to gentlemen on this side of the House. Let us perfect these bills. Both of them are imperfect. Let us frame such a measure as will do justice to every one to whom justice is due. I believe the House will vote for just such a bill. I do not believe that anybody here desires the passage of a bill by which injustice shall be done to any class. The only trouble is that, through prejudice, some gentlemen have the notion that a just claim cannot come from the South.

But the claims of the Union people of the South are founded upon the rock of the Constitution itself. The fifth article of amendment declares that private property shall not be taken for public use without just compensation. And the Supreme Court of the United States has interpreted and applied this clause in such an apt manner that there is no ground for mistake or misconstruction so as to avoid its authority or dodge the responsibility it imposes. And such is the view taken by the leaders of the Republican party.

It was never dreamed by the statesmen at the head of affairs during the war but that all the just claims founded in its prosecution would be speedily paid. And such was the view of the wisest and best men of the Republic following the close of the war. Under the leadership of Republican statesmen Congress inaugurated a policy, both humane and just, at the close of the war, and a long line of special legislation followed, doing justice to the Union people of the South. Many acts of Congress were passed for the benefit of loyal persons living in the seceded States. And I desire in this connection to call attention to the views of some of the most distinguished Republicans on this subject. The present Postmaster-General, Howe, then a United States Senator from Wisconsin, on February 7, 1873, submitted a report to the Senate on the subject of claims, in which he reviews this whole subject and discusses the liability of the Government to its citizens for property taken and used in time of war, with great ability. He presents many authorities to sustain his position, and I do not see how the force of his arguments can be successfully met. I submit the following arguments and analysis of authorities from that report:

Whatever property the Government takes from its own obedient subjects for the more efficient prosecution of the war should be compensated for, no matter whether it be forage fed to the cavalry horses, powder burned, timber used on fortifications, houses removed to make way for such fortifications, or houses destroyed to make them more secure.

Grotius asserts the same doctrine. He says:

"The king may in two ways deprive his subjects of their right, either by way of punishment or by virtue of his eminent power. But if he do so in the last way, it must be for some public advantage and then the subject ought to receive, if possible, a just satisfaction for the loss he suffers out of the common stock."

Again he says:

"The state has an eminent right of property over the goods of the subjects, so that the state or those that represent it may make use of them, and even destroy and alienate them, not only in extreme necessity, but for the public benefit, to which we must add that the state is obliged to repair the damages suffered by any subject on that account out of the public stock."

Mr. William Whiting has discussed the subject of war claims with direct reference to the liabilities of the United States growing out of the late war. He writes with extreme caution, but even he asserts that—

"If the private property of loyal citizens is appropriated by our military forces for the purpose of supplying our armies and to aid in prosecuting hostilities against a public enemy, the Government is bound to give a reasonable compensation therefor to the owner."

Again he says:

"When individuals are called upon to give up what is their own for the advantage of the community, justice requires that they should be fairly compensated for it. Otherwise public burdens would be shared unequally."

Again he says:

"Public use does not require that the property taken shall be actually used. It may be disused, removed, or destroyed, and destruction of private property may be the best public use it can be put to. Suppose a bridge owned by a private corporation to be so located as to endanger our forts upon the banks of a river. To demolish that bridge for military purposes would be to appropriate it to public use."

Speaking again in another part of this report Mr. Howe asserts that the Government is bound to the citizens for property appropriated by the Army, and declares—

The Constitution imperatively requires that the public shall make compensation for it. Judicial authority is not less explicit than that of the text-writers.

In Grant *vs.* the United States, 1 N. & H. Reports, the court says:

"It may safely be assumed as the settled and fundamental law of Christian and civilized states that governments are bound to make just indemnity to the citizen or subject whenever private property is taken for the public good, convenience, or safety."

In that case the United States was held to pay for the property destroyed in Arizona, merely to prevent it from falling into the hands of the enemy.

In the case of Mitchell *vs.* Harmony, reported in 13 Howard, 115, Chief-Justice Taney, delivering the opinion of the court, says:

"There are, without doubt, occasions in which private property may occasionally be taken possession of or destroyed to prevent it from falling into the hands of the public enemy; and also where a military officer charged with a particular duty may impress private property into the public service or take it for public use. Unquestionably, in such cases, the Government is bound to make full compensation to the owner."

Such were the expressions of views and citation of authorities by the present Postmaster-General.

But now let me turn from the living and recall the voice of the dead—the great Indiana statesman, the late Senator Morton. On the 12th day of January, 1869, when this question was under consideration in the Senate, he made the following remarks:

Mr. President, from the beginning of this war we did all in our power to encourage the people of the South to be loyal and to stand by the Government. We promised them protection for life and property so far as it might be in our power. What kind of protection did we promise to accord to them? I take it, the same kind of protection that we would accord to a loyal man living in the North. If it did not mean that it did not mean anything. We promised them that they should have the same sort of protection for life and property if they would remain loyal and stand by the Government that we would give to the loyal man living in a loyal State. What kind of protection is that to a loyal man in the South, where you take his property upon the same terms and conditions that you take the property of a rebel? It is a direct violation of that promise; it is a violation of our whole policy to the loyal men of the South from the beginning of the war.

Why, sir, we have encouraged them by proclamations; we have encouraged them by acts of Congress; we have encouraged them by the general orders of the generals of the Army; we have encouraged them by the very policy mentioned by the Senator from Nebraska, that wherever our officers took property in the South for military purposes they should give a voucher for it conditioned for payment upon the proof of the loyalty of the claimant, and we thereby, at the time our armies were there, encouraged the loyal men of the South to stand by us, by our generals, saying to them, in the form of vouchers: "You shall be paid for this property if you can prove your loyalty when the war is over."

That was the promise we made to the loyal men of the South, in every possible form and from day to day. Our solemn faith as a nation is pledged on this subject, and we cannot adopt the policy that has been advocated upon the floor of the Senate without compromising and violating that faith. Why, Mr. President, have we not pledged this protection to the Union men of the South in every possible form? Have we not obtained political power upon it? Did we not go before the people of this country last year and rehearse the story of their wrongs? Did we not appeal to the people, to their hearts as well as their heads, when we portrayed to them the sufferings and the wrongs endured by the loyal men of the South, how they were plundered of their property, how their lives were made insecure, how they had spent their days in imprisonment or exile? All of these things we have done, and we have acquired political power partly in consequence of it. We have called them friends from the beginning, we have built upon their friendship, we are their friends in every particular until they come to us with a bill for payment, which a northern man would receive payment for under precisely the same circumstances, and when they come to us with such a claim we tell them, "We cannot pay you; we must regard you as public enemies; you had the misfortune to live in a rebel State, and must therefore be regarded as public enemies." Sir, I cannot find language that I am willing to employ with which to describe this proposition.

Sir, it is not for the Republican party to take this ground. Let us leave it to the Democratic party. But to their honor be it said their Representatives on this floor have repudiated it. If this deed is to be done, let it be left to that other party who have not been the friends of the Union men throughout the struggle, whose sympathies were not with them. Let it not be said that that party which has claimed to be the protector of loyalty both North and South, which has appealed to the people for the protection of the Union men of the South, which has excited the sympathy of the nation by the story of their wrongs, have at last played false to those same men and, when peace has come, turned upon them coldly with this old metaphysical doctrine of international-law writers, that they are to be regarded as public enemies.

* * * * * * *

Now, Mr. President, the reason given in answer to my question is, that the property of the man that was taken in New York was under the protection of the Constitution and laws of the United States; but the property of the loyal man in Alabama was not under the protection of the Constitution of the United States. I deny that proposition. It is at variance with the whole theory upon which we prosecuted this war. If that proposition is true, then a large part of our legislation in regard to the war is false, unfounded, and unconstitutional. We proceeded upon the theory that the Constitution and laws should protect the life and property of every loyal man in this country wherever he might be found. We proceeded at the same time upon the theory that the property and the lives of the rebels could not be protected, or they could not claim protection under the Constitution that they were fighting against and were laboring to overthrow. Why, sir, the idea that because of a rebellion on the part of a portion of the people of the State of Alabama the protection of the Constitution was withheld from the loyal men of that State, has not got a single leg to stand upon. It has neither authority nor has it reason; but it is in conflict with every proclamation, with every statute, and with every step that we took to put down that rebellion, from beginning to end.

Again says the honorable Senator:

But when property was taken in the State of Alabama, a State at war with the Federal Government, no such legal liability attached.

Are we prepared now to recognize the doctrine that the State of Alabama, as a State, was at war with the Federal Government? No, sir; never. We did not proceed upon that theory. When we were told at the beginning of the war that we had no authority to coerce a State we said, "We have nothing to do with States, we will coerce the rebel people of that State; with the State as such we have nothing to do." If it shall now be recognized that the State of Alabama, as a State, in her municipal character was carrying on a war with us by means of which the loyal men of that State were deprived of their protection under the Constitution, there are many other consequences which will follow that doctrine which we dare not admit. Sir, that doctrine is heretical. We dare not, we cannot maintain it without overturning the whole theory upon which we have put down this rebellion.—*Congressional Globe*, second session Fortieth Congress, page 358.

Never did any man speak more truth with greater precision and stronger logic than thus spake the noble Morton.

Again, in replying to the fallacy of "disloyal States" working corruption of political faith, and thus making the citizens of such States disloyal in contemplation of law, the great Morton said:

But, Mr. President, let me take the case of a Union man in the South who has borne the heat and burden of this civil war, who has been persecuted, and who has sustained all those hardships that we know were incident to a Union man in the South during the war. To say that we will treat him as a public enemy, and that we will refuse to pay him for his property deliberately taken by the Government, where under the same circumstances we would pay a man living in the North for his property taken by the Government, is revolting to the plainest principles of justice. I cannot subscribe to any such doctrine. Why, sir, I know that where a camp was organized in the State of Indiana, or Ohio, or Pennsylvania, for the purpose of collecting and preparing troops, the owner of the property was indemnified by the Government for the damage done to it, or where forage and provisions were taken for the purpose of subsisting those troops the parties were indemnified for their property. To say that we will not pay a Union man in the South where his property has been taken under the same circumstances is revolting to the common principles of justice. I would throw to the winds all these technical rules by which the Union man of the South is to be treated as a public enemy, and by which we shall refuse to do him that justice which we would do to a man in the North, of doubtful loyalty, who was living in peace, comfort, and safety.

Mr. President, there was one authority referred to, I believe, by the Senator from West Virginia [Mr. WILLEY] which perhaps might even cover all the cases, and I think that was in Vattel. He can correct me if I state it incorrectly. That authority was that even, for example, in a loyal State, or in a part of the country where the insurrection did not prevail, if the Government deliberately took property, as a house or garden, to make a rampart or fortification, or if it took forage or subsistence deliberately, the Government was not bound to make payment. According to that authority, as I understand it, when General Lee invaded the State of Pennsylvania and the army of General Meade was falling back, if in the course of a march or a battle they destroyed the property of loyal men, that would be an act of war for which the Government would not be liable even in a loyal State.

And, sir, applying that principle to the Southern States where General Sherman on his march, or in the course of a battle, passed over and destroyed the property of Union men the Government is not liable; but if General Meade in the course of expelling Lee deliberately destroyed property which became necessary for a fortification, or seized the forage and provisions of loyal men around him there, the parties would be paid, and under the same circumstances they should be paid in the South, always upon the condition that they are true and loyal men.

Then, does not the rule reduce itself down to simply this, that wherever a loyal man in the North would be paid for his property which was deliberately appropriated by the Government, a loyal man in the South should be paid for his property deliberately appropriated by the Government; and where in the North a loyal man would not be paid for property destroyed in the course of a march, or of a battle, so in the South a loyal man should not be paid for his property destroyed in the same way.

Can we afford to make any other rule on this subject? We might save some money by making another rule; but it would in the end be penny-wise and pound-foolish economy. After having expended some $5,000,000,000 to keep the South in the Union, and after all our labors to build up a loyal party down there, shall we come here making shipwreck in the end by declaring upon the floor of the Senate that the loyal men whose hardships and sufferings we can never estimate shall be treated as public enemies, and that we will not pay them under the same circumstances under which we would pay a man for the taking of like property in the North? I can never consent to it.—*Congressional Globe*, volume 71, page 308.

Perhaps the best possible conclusion of what I wish to say on this particular point will be found in the language of our present honored Speaker, who on the 10th day of May, 1878, declared that—

Whatever others may do, or believe, I shall advocate on the floor of this House as I have advocated in the committee, and gentlemen of the committee will corroborate me in this statement, a liberal rule as to the payment of claims of loyal men living in the South. I am not to be classed among those opposed to paying claims of this character.

Mr. Speaker, I might continue to quote from the statesmen and jurists of both political parties in support of the position that it is the duty of the Government to pay its loyal citizens for their property which was taken and used by the United States Army. But I turn to another feature of this question, of the payment of "war claims."

We hear a great deal said in these days in regard to repudiation. One set of politicians are denounced, or were a few years ago, when they startled the country and shocked the public conscience by proposing to inaugurate a sugar-coated policy of repudiation by paying off the bonded debt of the Government with fiat money—greenbacks.

Another set of political speculators are charged, and perhaps justly, with desiring to repudiate the pensions provided for the ex-Union soldiers of the country. And still another class have to bear the odium of trying to repudiate the indebtedness of their respective States. Tennessee is just now under fire on account of the repudiating tendencies of some of her political leaders. Shall the Greenbacker be discountenanced for proposing to pay the bondholders in greenbacks and the men honored who refuse to pay the Union men of the South even by a promise? Shall those who would destroy our beneficent system of pensions to our citizen soldiers be denounced for their repudiating ingratitude, while those who refuse to pay for the rations on which the soldiers subsisted during the war receive commendation and praise? Shall Tennessee be dishonored because the leaders of one wing of the Democracy in that State seek to repudiate her bonds, and the Congress of the United States held blameless when it refuses to provide a means of settlement with those to whom it is honestly indebted, as in very many cases in the border States of the South?

If certain States of the Union are to be dishonored for refusing to meet their just obligations to their creditors, what shall be said of the United States for setting the dishonest example? If Tennessee and her people are to be reproached for becoming involved in a large State debt, and then refusing to provide a court in which to enforce payment, what is to be said of the Government of the United States for taking the last horse, the last cow, the last hog, the last bushel of corn, and the last pound of bacon to be found in the smoke-house of her loyal citizens in the South, and then refusing to let its own courts consider the legal liability involved? If one of the things I have mentioned is repudiation, is dishonesty, so is each of the others. If any one act of repudiation is more dishonest and degrading than another, it would be that of the great Government of the United States refusing to pay the debts created to save the Union. And I say here and now that the great Government of the United States cannot afford to repudiate the just claims of its loyal citizens.

But it has got to be a common thing for a certain class of politicians to declare that there was very little loyalty in the South. All I have to say to this is, that there were more unconditional Union men in Eastern Tennessee according to population than in any part of the United States, and I to-day represent more ex-Federal soldiers according to the number of voters in my district than any member on this floor.

No man who is not himself false to patriotism and all its impulses will call the loyalty of a very large Union element of the South in question.

But as a last refuge of those who are determined to force the Government to repudiate the claims growing out of the war due to Union men in the South, we are constantly told that these claimants have had their day in court. We are reminded that the act of July 4, 1864, has been applied to all of the State of Tennessee and two counties in West Virginia; and that the Southern claims commission was organized expressly for the benefit of the Union men of the South. "True, O king"—all of it!

But the act of the 4th of July, 1864, was and has been hedged about with so much cumbersome machinery and so many "red-tape" processes and conditions originating in the peculiar systems of West Point and the regular Army, that it amounted in many respects to an obstruction to instead of the means of reaching justice. And as to the Southern claims commission, the very law creating it was of such a slip-shod character that it put three otherwise dignified jurists to work with about the same system that would characterize the locomotion of a rickety old cart drawn by a blind and balky horse on a stumpy hillside in the midst of a snow-storm.

For any man familiar with the proceedings of that tribunal to call that "a day in court" places himself at once in the front rank of American jokers, where he becomes the rival of Eli Perkins.

To be serious, while I have very great respect for the gentlemen who composed this commission, I do not believe any well-informed person will stake his reputation on an effort to sustain their findings on any known principle of jurisprudence applicable to courts of law or equity. And the delays and clogs connected with the proceedings in the Quartermaster-General's Office, under the act of July 4, 1864, and before the southern claims commission, were such as to permit the bar of the statute to intervene before very many of those interested knew that such means for their relief had been provided.

In conclusion, Mr. Speaker, I will repeat what I said in the beginning, that no more important matter can arrest the attention of Congress than that of providing for the adjustment of claims against the United States, for, in addition to the right and wrong involved in the question, the transfer of these claims from Congress to some other department of the Government will be a real and advancing step in the direction of "civil-service reform." It will lessen the expenses of legislation and permit Congress to pursue its legitimate work as designed by the founders of the Government and expressed in the letter of the Constitution.

These claims ought to be paid, and one of two things ought to be done: the Court of Claims ought to be given jurisdiction over them, or the powers of the Quartermaster-General should be enlarged and the time extended in which to file them, so that justice may be meted out to the people.

And it will not be out of place to add, as a last word, that France, yes, "bloody France," at the conclusion of her late war with Prussia not only paid her citizens for the property taken and used by government, but paid them, as I understand the fact, for all the losses inflicted upon them by the public enemy. If France can thus set so good and generous an example, cannot the United States be as just as France is generous and pay her loyal people for property of which the Government received the benefit? In the name of right and justice, I say the United States should pay all just and loyal claims.

Such was the original purpose of Congress. Such was the intention of all parties, until political leaders conceived the idea of mak-

ing political capital out of the subject by crying, "War claims." The time has come to rebuke this demagogism by the adoption of some just measure for the relief of the people.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed the bill (H. R. No. 5801) to provide a deficiency for the subsistence of the Arapahoe, Cheyenne, Kiowa, Comanche, Apache, and Wichita Indians.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 447) to provide for the allotment of lands in severalty to the United Peorias and Miamies of the Indian Territory, and for other purposes;

A bill (S. No. 596) for the relief of Edgar Huson; and

A bill (S. No. 1071) for the manufacture of salt in the Indian Territory.

REFERENCE OF CLAIMS TO THE COURT OF CLAIMS.

Mr. TYLER. I send to the desk an amendment, which I desire to offer when in order.

The SPEAKER *pro tempore*. The amendment will be printed in the RECORD under the order of the House.

The amendment is as follows:

At the end of the third section of the pending bill add:

"*Provided*, That in the examination of claims referred to the Court of Claims by virtue of this act, the court shall first examine the question of the claimant's loyalty, and if in its opinion any claimant did not remain a loyal adherent to the cause of the Government of the United States during the war of the rebellion, the court shall proceed no further in the examination of his or her claim, but shall report that opinion to Congress or to the Department of the Government from which the claim was referred to said court."

Mr. SPRINGER. Mr. Speaker, I shall vote for the bill reported from the Committee on Civil-Service Reform by the gentleman from Tennessee, [Mr. HOUSE,] and now offered as a substitute for the bill reported from the Committee on Claims, with some amendments thereto. I am very glad that the subject of referring private claims now pending or which hereafter may be brought against the Government to some court for the ascertainment of the facts has at last obtained a hearing in Congress. We have had bills of this kind pending heretofore, but scarcely a moment's discussion has been given to them. The question of considering private claims has become so serious that we are compelled to do something in order to relieve our calendars from the pressure now upon them.

All abuses in Government must be remedied sooner or later by the prominence which those abuses obtain. The evils connected with special and private legislation have become so great that Congress cannot longer shut its eyes to their existence, but must meet and provide for them in some way. It is proposed in this bill to do this by an act of Congress. I have submitted heretofore a joint resolution proposing an amendment to the Constitution denying to Congress the power to pass any private law. I am not particular what remedy shall be adopted, whether a constitutional amendment or an act of Congress. I should hope that an act of Congress would be passed, because we can accomplish that more easily than we can secure the ratification of a constitutional amendment.

The bill now pending provides in the first section that Congress shall not authorize the payment of any private claim not payable under existing laws until the facts upon which such claim is based shall have been judicially established and reported, as provided in the other sections of the bill. What objection can there be to this proposition? What wrong can result from this enactment? It simply provides that Congress shall not pass a private claim until the facts shall have been judicially ascertained.

Gentlemen have said that this will open the door for the allowance of fraudulent claims, rebel claims, disloyal claims, and all sorts of schemes and jobs can be gotten through under such a provision. I cannot see it in that light. On the contrary, this is putting up the barriers and preventing any claim being passed by Congress until after a full knowledge of all the facts upon which it rests.

How are the facts to be ascertained? This bill says judicially, and judicially has a technical signification in this case. The facts are to be ascertained by a court in the ordinary way of ascertaining facts in a court of justice. How do we ascertain them now? Every gentleman is familiar with the practice in Congress of considering private claims. A bill is introduced; it goes to a committee; is referred to one member; sometimes to two, and sometimes to three, as a sub-committee. That sub-committee has placed in its hands certain *ex parte* evidence taken by the party in interest, and that sub-committee considers this evidence in its own way, evidence taken without any judicial investigation whatever. Upon this *ex parte* evidence Congress is called upon to pass bills involving large sums of money.

Now, this bill provides that we shall not hereafter pass upon facts in this way, but that we shall only pass upon claims where the facts have been judicially ascertained, and that after we have judicially ascertained the facts as courts of justice ascertain facts, then we can proceed to determine whether we will grant the relief provided in the bill or not. The other provisions of the bill simply point out the mode of proceeding by the Court of Claims.

I need not refer to the various provisions herein set forth. The honorable gentleman from Tennessee [Mr. HOUSE] who has reported this bill very clearly and forcibly presented the provisions of the various sections of the bill, and I will not recapitulate what he has already so well stated.

There is one section, section 4, to which I do ask the attention of the House at this time. That provides that in case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, or for the destruction of or damage to property by any part of said forces, the petition shall aver the person furnishing said supplies or stores or whose property was so damaged, destroyed, or taken, did not give aid or comfort to said rebellion, but was through that war loyal to the Government of the United States, which averment shall be investigated and the facts in relation thereto found and reported by the court.

Now, in the face of this very positive provision it has been asserted on this floor by gentlemen that the court will not do what is directed to be done, that we cannot require a court to do what is provided in this section. That seems to be a strange doctrine that the court created by act of Congress, clothed with special, not general, jurisdiction, will refuse to exercise the jurisdiction conferred on it in the manner and under the restriction required by the law-making power which gives it existence.

Mr. HOLMAN. Let me ask the gentleman a question in reference to the section which he is now considering. Is it good policy to confer upon the Court of Claims power to hear cases growing out of spoliations of war? Does the gentleman think that is good policy?

Mr. SPRINGER. So far as I am concerned I shall vote against the payment of all claims, whether of loyal or disloyal persons, which originated in the war, for the destruction of or damage to property by any part of the forces of the United States or confederate governments.

Mr. HOLMAN. That section gives the court jurisdiction of that class of claims.

Mr. SPRINGER. It gives the court jurisdiction to ascertain the facts and report to Congress, and Congress will be clothed with no greater power to grant relief hereafter than it has now.

Mr. HOLMAN. It confers jurisdiction on the Court of Claims as to all matters of damage in the destruction of property, all kinds of military spoliations, rents for the use and occupation of property, &c.

Mr. SPRINGER. The provision of the bill is this:

The petition shall aver that the person who furnished such supplies or stores, or whose property was so taken, destroyed, or damaged, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States.

Mr. BRAGG. What bill is that?

Mr. SPRINGER. The bill reported by the gentleman from Tennessee, [Mr. HOUSE.]

Which averment shall be investigated and the facts in relation thereto found and reported by said court.

Mr. HOLMAN. That is the fact in reference to the question of loyalty.

Mr. SPRINGER. That is the jurisdictional fact. The petition shall aver that the claimant was loyal. A petition which is presented and which does not aver this is not brought within the jurisdiction of the court to hear it; it would be excluded under this provision of the bill. It shall aver that the person who furnished the supplies was loyal to the Government of the United States throughout the war.

Now, I repeat, if a petition shall be filed which does not aver that the claimant was loyal the court can dismiss such petition for want of that jurisdictional fact being stated; and the court will be compelled to investigate the question unless I am greatly in error as to the practice established under such a provision. This is an affirmative fact to be found not only to give the claimant standing in court but also the provision, "which averment shall be investigated and the facts in relation thereto found and reported by said court."

Mr. HOLMAN. Certainly that would have to be investigated and the facts in the case reported to Congress. But there is another question which I desire to ask the gentleman. There is a large body of claims which have been pending and considered in various ways, which have been barred in various forms. In a great many cases claims have been allowed in whole or in part, while others have been rejected wholly. Now, does the gentleman propose to reopen all of the cases which were barred and throw them all upon the court again for investigation?

Mr. SPRINGER. This section 6 provides that—

No private claim of the character described in section 2 of this act, which accrued prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims or considered by Congress or any of the Executive Departments.

Here is a bar to all claims wherein the claimant has not presented the claim within the limit prescribed by law.

Mr. HOLMAN. There were some fifty-three—I believe sixty thousand of these claims before the Southern claims commission. They were all acted upon in some form or other. They were allowed in part in some cases or rejected as a whole. Now, there is nothing

here to prevent the reconsideration of all the claims which were rejected entirely or rejected only in part by that commission.

Mr. SPRINGER. I hope the gentleman from Indiana will move an amendment to that effect. I shall vote for it. I shall vote for a provision that this court shall consider no claim rejected by either House of Congress or by a Department of the Government or by the Court of Claims itself or the Southern claims commission.

Mr. HOLMAN. Would my friend from Illinois not go a little further? The law touching the adjustment of claims before the Quartermaster-General's Department or the Commissary-General's Department provided that only such claims should be considered as were presented prior to the date mentioned in the law; and unless they were filed before that date the claim was barred. Now, does my friend propose to reopen all claims which were barred by the act of 1871, and the claims which were rejected by those departments?

Mr. SPRINGER. I will vote for an amendment to the bill to bar all claims which are barred by the act of July 4, 1864. That, I believe, was the date of the act.

Mr. HOLMAN. Yes, sir; that was the date.

Mr. SPRINGER. I should vote to bar all such claims.

Mr. HOLMAN. And give effect to the other bars now existing by law?

Mr. SPRINGER. Yes, sir; I would. I should be very much opposed to opening any of the avenues for the allowance of claims against the Government which are now closed.

But the gentleman from Indiana must understand me. The act of July 4, 1864, had reference to a general class of claims therein indicated; but all other claims barred by the statute of limitations, because the Court of Claims has not jurisdiction to hear them, which are meritorious, I should think ought to have a hearing before that court. I think there should be a hearing upon the question as to whether the party has allowed his right to lapse in such cases through no fault of his own.

I voted in one session of Congress here, I am not certain which one, for a constitutional amendment to bar all war claims, on the general idea that after the war had been closed for so many years it was too late to consider claims which originated during the war. I am not certain whether I was right or not; but I have seen nothing since that time to cause me to regret that I had voted for such an amendment.

I do not desire to open up any facilities for the allowance of claims that grew out of the late war, and generally of claims which have not been in good faith presented to the Court of Claims or to some of the Departments of the Government or to Congress for relief in the only way pointed out to them to seek relief. The Government should endeavor to do justice to its citizens, and that is the reason why I favor some means by which persons having claims against the United States can be heard upon the facts. There is no forum now open for such people except for claims arising upon contracts expressed or implied, which may be sued in the Court of Claims under its general jurisdiction if suit is begun within the time prescribed.

There are many equitable cases arising against the Government that ought to be heard in a judicial way by some tribunal. Gentlemen must reflect that this country is getting to be a very large one. We have mail contracts in every school district of the United States; we have contracts with every railroad company in the United States; we have persons engaged in carrying the mail in every locality throughout the land; we have foreign relations in which the rights of citizens of this Government may be involved. In all the departments and under all the laws of Congress cases may arise where the party ought to have a hearing. Now, he is remitted to Congress, which is worse than no tribunal at all.

Mr. ROBINSON, of Massachusetts. If the gentleman will allow me I will say, not in those cases of mail contracts. I suppose in those cases the party has his remedy now in the Court of Claims.

Mr. SPRINGER. Of course, in all claims growing out of contracts he would have the right to go to the Court of Claims. But there are many questions arising between contractors and the Government, not directly resting on the contracts but growing out of circumstances, too numerous to mention here. There can be no better illustration of the injustice to claimants and the outrage perpetrated by the Government upon claimants than was exhibited by this House on Monday last. A claim was passed allowing about $70,000 to be paid to persons who were engaged on the private-armed brig General Armstrong, a claim which originated in 1814, sixty-eight years ago. The parties interested in that case, or their heirs, have been seeking relief, have been trying to have justice done to them, for sixty-eight long years—more than two generations of the average age of men.

Mr. BRAGG. Was that case ever considered by any tribunal?

Mr. SPRINGER. It has been considered by Congress.

Mr. BRAGG. By Congresses previous to this one. But has it been considered by any other tribunal?

Mr. SPRINGER. I am not advised as to that.

Mr. BRAGG. I think it has.

Mr. SPRINGER. I am not advised as to that. It has been pending for that length of time and was not allowed till last Monday by this House. And the vote passing it by tellers was 136 ayes to 36 who voted against it. I voted against that claim on account of its old age, I am ashamed to admit. I think if it is a just claim it should have been paid by our predecessors more than fifty years ago. They have certainly neglected their duty in the most grievous manner, or else these claimants have at last succeeded in mulcting the Government in a large sum of money which ought not to have been paid.

Mr. ROBINSON, of Massachusetts. Did you refuse to do your duty because your ancestors did not do theirs?

Mr. SPRINGER. I refused to vote for this claim simply because I thought a claim sixty-eight years of age ought to be barred on general principles.

Mr. HOLMAN. And you made no mistake there.

Mr. SPRINGER. I think I made no mistake. I was ashamed to admit by a favorable vote that my Government had refused to pay an honest claim for half a century.

Mr. HOLMAN. Will my friend from Illinois allow me to ask him if the limitations I wish to submit to him cover the ground he has mentioned?

Mr. SPRINGER. If the limitations are not as great upon this bill as the gentleman from Indiana desires them to be, I hope he will move amendments making the limitations as great as he sees fit. I shall certainly co-operate with him in placing in this bill as many restrictions as possible, so as to make it effective for the object we have in view.

The object I have in view in this bill is to remove from the consideration of Congress claims that are now crowding our calendars and are carried over from Congress to Congress, to the annoyance of the members of this House and of the Senate and to the encumbering of us with matters which Congress ought not to be called upon to consider, namely, private claims against the Government of the United States.

I have stated heretofore that I did not believe it was within the power of Congress under the Constitution to adjudicate private claims. I have taken that position from the fact that all legislative power was vested in Congress and all judicial power was vested in the courts. Whether the Government of the United States owes an individual is a fact which ought to be ascertained in a judicial way. There is no opportunity offered to us to consider these cases. They have become so numerous that we are absolutely met with a blockade, and we must do something to relieve it.

Mr. Speaker, I have asked the Librarian of this House, Mr. Smith, to prepare a statement of bills and joint resolutions introduced in each Congress from 1861 to 1881 inclusive, a period of twenty years. I will have this table printed in my remarks. Gentlemen will observe on examination of it that there have been introduced during the last twenty years in Congress 52,164 bills. Most of these were private bills, and they have been printed by Congress at an enormous expense. The table is as follows:

A statement of bills and joint resolutions introduced in each Congress from 1861 to 1881, inclusive.

Congress.	Senate bills.	Senate resolutions.	House bills.	House resolutions.
Thirty-seventh, 1861–'63	433	137	613	158
Thirty-eighth, 1863–'65	485	128	813	182
Thirty-ninth, 1865–'67	635	184	1,234	305
Fortieth, 1867–'69	980	244	2,023	476
Forty-first, 1869–'71	1,375	326	3,091	522
Forty-second, 1871–'73	1,652	15	4,073	592
Forty-third, 1873–'75	1,302	20	4,891	162
Forty-fourth, 1875–'77	1,293	33	4,708	196
Forty-fifth, 1877–'79	1,865	72	6,549	250
Forty-sixth, 1879–'81	2,224	167	7,257	419
	12,304	1,326	35,252	3,264
		12,304	3,264	
Total		13,630	38,516	
			13,630	
Grand total			52,146	

Very respectfully, yours,

W. H. SMITH,
Librarian House of Representatives.

I have also obtained from the Public Printer a statement of the cost of the printing of these bills from 1862 down to and including the year 1881. The cost for each year is stated in a table which I hold in my hand, together with the letter of the chief clerk of the Printing Bureau. I will have the table and letter printed as part of my remarks, only calling the attention of the House to the aggregate, which was for these twenty years of printing of bills, $459,740. Nearly half a million of dollars have been expended by Congress in the last twenty years in the printing of bills; and the clerk furnishing me with this table says that a large portion of these were private bills.

The letter and table are as follows:

OFFICE OF PUBLIC PRINTER,
Washington, D. C., March 9, 1882.

SIR: I send herewith a statement showing the cost of printing bills and joint resolutions for the House and Senate, respectively, from 1862 to 1881, both inclusive.

We do not keep the cost of bills of a public and private nature separate, but the latter comprises about two-thirds of the whole number printed.

Very respectfully,

A. F. CHILDS, *Chief Clerk,*
For the Public Printer.

Hon. WILLIAM M. SPRINGER,
House of Representatives.

Statement showing the cost of printing the bills and joint resolutions of both Houses of Congress for the years 1862 to 1881, inclusive.

Year.	House.	Senate.
1862	$2,583 62	$2,718 55
1863	924 62	1,620 78
1864	2,429 03	3,999 95
1865	802 62	1,572 58
1866	8,777 70	15,101 36
1867	7,985 17	8,575 42
1868	7,474 62	9,902 53
1869	7,291 09	9,693 00
1870	14,006 05	18,939 28
1871	9,715 77	11,164 64
1872	18,882 32	18,108 49
1873	8,776 86	9,262 96
1874	29,335 34	15,862 86
1875	9,793 60	9,686 26
1876	28,873 98	14,634 01
1877	4,990 61	4,095 66
1878	32,519 90	17,462 40
1879	20,901 66	18,334 30
1880	23,861 30	14,048 18
1881	7,482 40	7,548 64
Total	247,408 26	212,331 85
		247,408 26
Grand total		459,740,11

It will be seen by this table that during the Forty-fifth Congress the cost of the printing of bills amounted to $73,116; and during the Forty-sixth Congress the cost of the printing of bills amounted to $69,000. Members will discover that the cost of printing bills was less in the Forty-sixth Congress than in the Forty-fifth Congress. That was owing to the fact that a new rule, which I had the honor to submit, was adopted on April 9, 1879, which provided that private bills heretofore printed by Congress should not be reprinted until they had been favorably reported from some committee. That little rule, which was enforced during a part of last Congress, saved the Government a very large sum of money in the printing of private bills, the saving amounting to over $8,000.

There were introduced in the last Congress 10,000 bills. There have been introduced during this Congress up to this time in the House 6,103 bills and joint resolutions, and in the Senate 1,818; making a total of 7,921 bills and joint resolutions now pending before this Congress; and we have been in session but a little over four months.

Mr. BRAGG. Will the gentleman permit me to ask him a question?

Mr. SPRINGER. Certainly.

Mr. BRAGG. I would inquire of the gentleman if the bill which he favors places any restriction upon any one sending all these bills back here and having them printed?

Mr. SPRINGER. It will prevent those bills from being introduced hereafter and printed at the expense of the Government.

Mr. BRAGG. Where is that clause?

Mr. SPRINGER. I will read it:

Congress shall not authorize the payment of any private claim not payable under existing laws until the facts on which such claim is based shall have been judicially established and reported as hereinafter provided.

The party must go by petition to the Court of Claims and there set up his claim against the Government, and then the court will proceed judicially to consider it.

Mr. BRAGG. Will that prevent any succeeding Congress from passing any claim it may see proper?

Mr. SPRINGER. It does not; and that is the weak place in all this legislation.

Mr. BRAGG. Exactly.

Mr. SPRINGER. I will come to that after awhile.

Mr. BRIGGS. I was about to propound to the gentleman from Illinois [Mr. SPRINGER] the same inquiry which the gentleman from Wisconsin [Mr. BRAGG] has propounded, as to whether this first section is binding on any future Congress.

Mr. SPRINGER. Of course not.

Mr. BRIGGS. Or on the present Congress, after this bill shall have been passed.

Mr. SPRINGER. Of course not. Nothing short of a constitutional amendment will abolish this private legislation entirely. But I think the rule hereafter will be, when a private claim is introduced in Congress, if this bill shall become a law, that such private bill must provide upon its face for the repeal of this law, in so far as that particular claim is concerned. And as it will propose a repeal of the law it will of course be in order for Congress to consider it.

That is the weak place of all legislation of this kind. Future Congresses must be relied upon to protect themselves against the introduction and printing of these bills at the expense of the Government. That might be done by the adoption of some rule upon the subject. If you should provide that such claims shall come in only through the petition-box, and that when introduced here in that way they shall be referred to the Court of Claims for the ascertainment of the facts stated in the petition, we will in that way remove from the presence of Congress the consideration of private bills and the printing of private bills which now obstruct nearly all other legislation, and compel the party first to establish his loyalty and the facts of his claim in the Court of Claims before he can appeal to us for the payment of what he alleges the Government owes him.

Now, the honorable gentleman from Wisconsin [Mr. BRAGG] and the honorable gentleman from New Hampshire [Mr. BRIGGS] have referred to the fact that future Congresses may repeal this legislation. I regret that such power still exists and will continue to exist until a constitutional amendment upon this subject shall have been passed. I hope that before this Congress adjourns it will adopt and cause to be submitted to the several State Legislatures for ratification a constitutional amendment on the subject of private claims which will in substance provide that no case of a private claim shall ever be adjudicated by Congress.

Mr. BOWMAN. I wish to suggest to the gentleman that the objection which is made to this bill applies to every law passed by Congress, from a tariff bill up or down.

Mr. SPRINGER. Of course. I will ask the Clerk now to read a constitutional amendment which I have introduced into this House.

The Clerk read as follows:

Joint resolution proposing an amendment to the Constitution prohibiting special legislation.

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

ARTICLE —.

SECTION 1. The legislative power of the United States is limited to the enactment of laws general in their application and effect to all sections and persons within the jurisdiction of this Constitution. All local, private, or special enactments, hereby prohibited, shall be null and void.

SEC. 2. All claims against the United States shall be adjudicated and determined by such tribunal or tribunals as Congress may establish for that purpose.

Mr. SPRINGER. I ask gentlemen to give attention to that amendment, or to some other which will effectually put a stop to the adjudication of private claims by Congress.

Gentlemen need not be reminded of the fact that of all places under the sun in which a case should be adjudicated, Congress or a Congressional committee is the worst, not only for the claimants but for the Government itself. The Government is entitled to have all claims established against it in some open tribunal, where witnesses can be cross-examined and where the Government will have an opportunity of producing witnesses to disprove the claim set up by the claimant.

Give the Government this opportunity, and this great mass of claims which was represented in the last Congress by ten thousand bills, nearly all of them pending when that Congress adjourned, and which is represented in this Congress by seven thousand bills already introduced—give the Government the right to be heard against these claimants by witnesses, and they will disappear from these halls, at least a great many of them, never to return again.

I am not afraid, Mr. Speaker, to trust our successors in the House and in the Senate to pass upon the questions of fact which may be submitted by the Court of Claims under this bill. I shall assume that our successors will have as much probity, as much regard for the rights of claimants and the interests of the Government as we have exhibited on these subjects, and that when the Court of Claims shall send in their report upon the cases submitted to them under this law our successors will do justice to the claimants and to the Government; and if the facts show that the Government is in honor bound to pay a given sum of money, I cannot see any reason why it should not be paid.

Mr. ATKINS. Does this bill contemplate increasing the number of judges of the Court of Claims?

Mr. SPRINGER. It does not.

Mr. ATKINS. Then how does the gentleman expect the Court of Claims to perform this work?

Mr. SPRINGER. I think that the Court of Claims can in a reasonable time discharge the duties proposed to be imposed upon them by this measure.

Mr. ATKINS. Has not that court now as much business as it can do?

Mr. SPRINGER. I am not certain whether the members of the court are engaged all the time or not. But I understand they have reported to a committee of this House that they can take charge of this business, and will perform it in good faith.

Mr. ATKINS. Would there be a restriction in this bill forbidding Congress to act upon these matters hereafter? I presume of course we could not do that.

Mr. SPRINGER. No, sir; not without constitutional amendment.

Mr. REAGAN. It is very probable that many cases which now come to Congress would never go to the Court of Claims.

Mr. SPRINGER. As the gentleman from Texas well remarks, there are many claims coming now to Congress, because the parties hope to have the investigation take place on *ex parte* testimony, which would not go to the Court of Claims where representatives of the Government would be ready to cross-examine witnesses and to introduce evidence opposed to the claim. Many of these claims, as the honorable gentleman from Michigan suggests, would never see daylight if the facts were required to be exhibited in the light of day before an honest court.

Mr. Speaker, there seems to be an idea prevailing in the minds of some gentlemen that there is but one class of obligations that the Government of the United States should pay—United States bonds. Whenever a man has a bond of the United States we all stop and say, "Yes, the interest and principal must be paid according to the contract." That is right. But some gentlemen seem to stop there. Individuals under our laws are required to pay just claims, even when they have not given their bonds or their notes. Wherever a court hearing a case between man and man finds that one is indebted to the other, no matter whether there be a bond, or note, or anything of the kind, the court enforces payment. I believe the Government should be placed upon the same plane on which its citizens are placed in regard to these matters. If the Government of the United States justly and honestly owes a claim, it is dishonest for it to refuse payment.

The gentleman from New York [Mr. CAMP]—and I am sorry he is not now in his seat—referred on Friday last to the fact that there were certain disloyal claims pending before Congress. I desire to call attention to his language. He said:

> The people of this nation are apprehensive on the question of paying rebel claims. Why, sir, they have been told, and there are many reasons why they should believe, that there are about this Capitol nearly $3,000,000,000 of such claims in committee rooms, in pigeon-holes, and elsewhere, waiting but the advent of the Democratic party to power for their liquidation and payment. Whether this be true or not I am not here now to discuss.

Of course he was not. The honorable gentleman very timidly made the remark that he was not here to say whether the statement was true or not. But why did he not say that it was not true? He left the impression that there was some foundation for the statement. How many claims did he say there were? Three billion dollars of "rebel claims." Where?

> In committee-rooms, in pigeon-holes, and elsewhere, waiting but the advent of the Democratic party to power for their liquidation and payment.

I am sorry the honorable gentleman is not in his seat. I wanted to characterize that statement differently from what I shall now do. But I can say in his absence, and in a parliamentary way, that there is not a particle of foundation for that statement. Mr. Speaker, I have been in Congress nearly eight years, and I have never known a claimant to come to this House and ask to be paid any war claim without basing his petition or claim upon the fact that he was loyal during the war. I have never known a committee to consider such a claim that did not reject it if the disloyalty of the claimant appeared. I do not know any party or any set of gentlemen in this House who are in favor of paying to disloyal persons claims growing out of the war.

There are claims that originated before the war; there are claims with regard to pensions to Mexican soldiers; there are cases that have no reference to damages during the war, or supplies furnished at that time where the question of the loyalty of claimants has been discussed; but I do assert that so far as regards the class of claims embraced within the provisions of section 4 of this bill, for "supplies furnished to the military or naval forces of the United States, or for the destruction of property by said forces," there has been no claim pressed here, so far as I know, on behalf of any person who was disloyal during the war.

Mr. DWIGHT. The gentleman will allow me to ask him whether the statement of my colleague [Mr. CAMP] was not based upon the fact that in the discussion of the bill then pending it turned out that the claimant was a disloyal man?

Mr. SPRINGER. But in that very case (the claim of Edward S. Armstrong for about $1,600) the question of disloyalty was the matter in dispute; it was the question at issue, having been determined differently under different circumstances.

Mr. DWIGHT. The claims that my colleague referred to were those of the same character.

Mr. SPRINGER. No, sir; he speaks here of "rebel claims;" and he says:

> Nearly $3,000,000,000 of such claims are in committee-rooms, in pigeon-holes, and elsewhere, waiting but the advent of the Democratic party to power for their liquidation and payment.

Mr. DWIGHT. It crept out that claim was presented by a man presumed to be disloyal.

Mr. SPRINGER. That was a disputed question.

Mr. DWIGHT. Oh, no, it was not.

Mr. SPRINGER. He was said to be so after the evidence was heard.

Mr. DWIGHT. It is admitted that claim was presented by a man absolutely disloyal.

Mr. SPRINGER. The claim was not a war claim at all; it had nothing to do with the war.

Mr. DWIGHT. Does it make no difference to the gentleman that it was presented by a disloyal man? Such a one is cut off by the statute. This man was admitted to be disloyal, and under the law was not entitled to payment.

I wish to ask the gentleman from Illinois another question, and it is this, whether nearly all that side of the House did not vote for that claim after the claimant was known to be disloyal?

Mr. SPRINGER. No, sir; I do not know any such thing. I did not vote for it.

Mr. DWIGHT. I think the record will show that side of the House nearly all voted for it.

Mr. SPRINGER. I do not know how many voted for it. I state it was not a war claim and had nothing to do with the war. This party was simply claiming so much of his father's estate as came to him; a claim growing out of a contract his father had with the Government of the United States before the war. That is all there was in that case. I am not going into a discussion of it now.

Mr. DWIGHT. The man was in the war against us all the time.

Mr. SPRINGER. I do not know whether he was or not; I voted against it.

Mr. DWIGHT. Was not the man who presented that claim in the rebel army?

Mr. SPRINGER. I do not know.

Mr. DWIGHT. I state that he was. It is shown in the testimony that he was.

Mr. SPRINGER. The honorable gentleman from Ohio [Mr. TAYLOR] who succeeded in this House the late President Garfield reported it and advocated it on the floor of this House. I took it for granted we ought to pay it until the honorable gentleman from Michigan [Mr. BURROWS] made a statement in regard to it, and then I thought it ought not to be paid, and I voted against it. I submit to the gentleman from New York, would he not think a man might be misled on a question of loyalty after a favorable report was made on the case by a distinguished Republican member, the successor of General Garfield on this floor?

Mr. REED. The successor of General Garfield said the man was not loyal.

Mr. SPRINGER. He reported in favor of allowing the claim; but I am not going into the details of all these small claims. It is impossible for any one member of Congress to do it. We have to take them upon the report of the committee. This case came to the House under such favorable circumstances that any member would have been authorized to support it without going into the merits of the matter. After the gentleman from Michigan [Mr. BURROWS] made a speech on the subject, however, I felt satisfied the claim should not be allowed and voted against it. Let this suffice for this case. I hope the honorable gentleman will not interrupt me further on the subject.

Mr. DWIGHT. Did not all that side vote solidly for it?

Mr. SPRINGER. I did not; I voted against it.

Mr. BRAGG. Here is a small fragment who did not vote for it. [Laughter.]

Mr. SPRINGER. And I do not think the gentleman from Indiana [Mr. HOLMAN] voted for it. But here is the record of the vote. The enacting clause was stricken out of the bill by a vote of ayes 71, noes 40. The vote was by tellers. If all the "noes" were Democrats (which was not the case) they would constitute less than one-third of the Democratic members of the House.

Since the gentleman from New York [Mr. DWIGHT] seems so much concerned about the Armstrong case, I will print the report on it in the RECORD as a part of my remarks, in order that all the facts may be known. The report submitted by the gentleman from Ohio [Mr. TAYLOR] as the unanimous report of the Committee on Claims is as follows:

> The Committee on Claims, to whom was referred the bill (H. R. No. 987) amendatory of the act entitled "An act for the relief of the heirs and next of kin of James B. Armstrong, deceased," approved March 3, 1873, having had the same under consideration, beg leave to make the following report:
>
> In 1855 James B. Armstrong made a contract with the Government of the United States for the transportation of men and supplies on the Rio Grande. Armstrong claimed that the Government failed to comply with the terms of said contract, and brought suit against the United States in the Court of Claims to recover damages for the breach.
>
> In this action judgment was rendered by the Court of Claims in favor of his administrator (he having died) on the 22d day of November, 1860, for the sum of $17,846.78. The war intervening, no legislation making appropriation for the payment of this judgment till March 3, 1873, when a law was passed appropriating $13,385.09 for the satisfaction of this judgment of the Court of Claims, the Senate having cut down the sum proposed to that amount. (See Senate report No. 488, Forty-second Congress, third session.) The provisions of this law authorized the payment of the proportion of this amount to each of the heirs of said James B. Armstrong according to their interest in the estate, but required proof of the loyalty, during the rebellion, of each person to whom payment was to be made. On the 7th day of March, 1874, satisfactory proof having been made of the loyalty of all the heirs but one, each, except that one, was paid by the Secretary of the Treasury the sum of $1,673.14.
>
> The one not paid was Edward S. Armstrong, the proof of loyalty in his case not being satisfactory. Only two witnesses testified to this point: one by implication impeaching his loyalty, and the other swearing positively that he was and remained loyal during the war. Edward S. was a resident of Missouri during the war, and as that was a non-seceding and loyal State, the presumption of law would be that its citizens were loyal; yet the known facts of history as connected with this particular subject would not raise a very strong probability of fact as to a particular

individual. It is possible, therefore, that an officer acting under the positive and unyielding letter of the law referred to might be justified in withholding payment from Edward S. Armstrong; but your committee think that Congress will not feel obliged to require strict proof of this fact now that the case is before it for further action, especially as this claim accrued long before the war, is unquestionably honest, and comes to the claimant by inheritance.

On consideration of the whole case, the committee report back the bill with the recommendation that it do pass.

The SPEAKER. Under the order of the House the recess must be taken at half-past four o'clock, and there are a few matters upon the Speaker's table which ought to be disposed of. If the gentleman from Illinois will give way, it will not come out of his time.

Mr. BRAGG. How much time has the gentleman left?

The SPEAKER. Fourteen minutes.

Mr. SPRINGER. Very well; I will yield the floor at this time.

Mr. BOWMAN. I move that the bill under discussion reported by the Committee on Claims, as well as the one reported by the Committee on Reform in the Civil Service, be printed in the RECORD to-morrow morning.

The SPEAKER. That order has already been made, and the two bills will be printed in the RECORD.

Mr. BRIGGS. I move the following amendment:

Amend by inserting after the word "facts," in section 1, line 6, "accruing prior to August 20, 1866." Also insert after the word "matter," in line 1, section 2, "accruing as aforesaid."

Mr. HOLMAN. And I move to strike out the fourth section of the substitute offered by the gentleman from Tennessee [Mr. HOUSE] and in lieu thereof to insert the following:

SEC. —. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

SEC. —. In any case of a claim for supplies or stores taken by or furnished to any part of military or naval forces of the United States for their use during the late war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact, and unless the said court shall, on a preliminary inquiry, find that the person who furnished such supplies or stores, or from whom the same were taken as aforesaid, was loyal to the Government of the United States throughout said war, the court shall not have jurisdiction of such cause, and the same shall, without further proceedings, be dismissed.

The SPEAKER. Under the order of the House both amendments will be printed in the RECORD.

LEAVITT CANCELING-MACHINE.

On motion of Mr. SHELLEY, by unanimous consent, the Committee of the Whole House on the state of the Union was discharged from the further consideration of the bill (H. R. No. 2811) authorizing the Postmaster-General to purchase and adopt the Leavitt letter-canceling and post-marking machine; and the same was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. TALBOTT, until Monday next.

To Mr. HOGE, indefinitely, on account of sickness.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 26) to amend section 2326 of the Revised Statutes, in regard to mineral lands, and for other purposes;

A bill (S. No. 361) for a public building at Frankfort, Kentucky; and

A bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

HARRIET N. ABBOTT.

Mr. RAY, by unanimous consent, introduced a bill (H. R. No. 5906) granting a pension to Harriet N. Abbott; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CATHARINE A. MAPES.

Mr. HOBLITZELL, by unanimous consent, introduced a bill (H. R. No. 5907) for the relief of Catharine A. Mapes; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The Chair will state that in his absence at the evening session the gentleman from Michigan [Mr. BURROWS] will preside.

Mr. SPRINGER. What is the order of business for the evening session?

The SPEAKER. The consideration of bills reported from the Committees on Pensions, Invalid Pensions, and from the Military Committee for the donation of condemned cannon.

The hour of four o'clock and thirty minutes having now arrived, at which time, by a previous order of the House, a recess is to be taken, the Chair now declares the House in recess until seven o'clock and thirty minutes this evening.

EVENING SESSION.

The recess having expired, the House (at seven o'clock and thirty minutes p. m.) reassembled, Mr. BURROWS, of Michigan, in the chair as Speaker *pro tempore*.

Mr. MARSH. I move that the House take a further recess of ten minutes.

The motion was agreed to.

AFTER THE RECESS.

The House reassembled at seven o'clock and forty minutes p. m.

The SPEAKER *pro tempore*. The Clerk will read the order under which this session is held.

The Clerk read as follows:

Resolved, That until the further order of the House, on Friday of each week the House shall take a recess at 4.30 o'clock until 7.30 o'clock, at which evening sessions bills on the Private Calendar reported from the Committees on Invalid Pensions and Pensions only shall be considered. April 14, 1882, amended, on motion of Mr. JOYCE, so as to include the consideration of bills granting condemned cannon, not to interfere with bills above named: *Provided*, That general debate shall be in order at such sessions, not to interfere with said bills.

Mr. JOYCE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the Private Calendar, Mr. BRIGGS in the chair.

PRIVATE CALENDAR.

The CHAIRMAN. The House is now in Committee of the Whole House on the Private Calendar for the purpose of considering bills under the special assignment of business heretofore made by the House for this evening's session.

ORDER OF BUSINESS.

Mr. JOYCE. Mr. Chairman, there are some seven or eight pensions cases on the Private Calendar which have heretofore once or twice or perhaps oftener been passed over informally, because objected to. The first bill on the Calendar passed over in this way is the bill (H. R. No. 2142) granting arreages of pension to Andrew J. Morrison, a bill that I have charge of. Now, if these other bills that have been objected to from time to time, and which are likely to provoke discussion, can be passed over informally to-night so as to enable us to proceed with the consideration of bills on the Calendar to which there will be no objection, I shall not object to this bill being also passed over informally. I am willing that it shall be passed over as I have said, but only on condition that the others are informally passed over.

Mr. ATKINS. Can the gentleman from Vermont state the ground of objection to these bills?

Mr. JOYCE. Not with reference to all of them.

Mr. ATKINS. Have you an idea as to any of them?

Mr. JOYCE. Yes, sir.

Mr. ATKINS. Are they bills granting pensions to soldiers in the ordinary military service of the country; or are they for the purpose of granting pensions to some other than persons in the military service?

Mr. JOYCE. I think that in one or two cases they are for the purpose of pensioning men who are not, perhaps, considered directly in the military service.

Mr. ATKINS. Then I should myself interpose an objection to any of them being considered.

Mr. JOYCE. There are, I think, seven of these cases on the Calendar.

Mr. ATKINS. Then I shall object to their consideration, because I am satisfied that I know of some gentlemen who wish to be heard upon them. I do not desire myself to say anything in reference to them, but I know other gentlemen who wish to be heard.

Mr. PARKER. I would like to know from the gentleman if he will object to their consideration on the ground that there is no quorum present?

Mr. ATKINS. I have already given my ground of objection.

Mr. PARKER. I suppose a simple objection does not stop those more than any other?

Mr. ATKINS. Yes, sir; it will without a quorum.

Mr. PARKER. Of course if the gentleman opposes their consideration on the ground that no quorum is present he can prevent their consideration.

Mr. MATSON. I would ask the gentleman from Tennessee if he would not be willing to proceed with the consideration of those cases on the Calendar which are not likely to provoke discussion, and take up the cases to which he now refers at a subsequent time.

Mr. ATKINS. I do not desire to make any factious opposition. I have not the remotest idea of that. I believe the soldiers who have served the country faithfully and have become disabled by reason of wounds or disease contracted in the military service ought to be pensioned. I think a country that will not pension its brave defenders when they become maimed in the service is not worthy to live.

But, sir, I spoke of a class. That class the gentleman from Vermont has alluded to. The proposition, as I understand, is to pension certain parties who were not in the military service, and I objected

to that just because I knew there were some gentlemen, members of the House, who would object to those bills passing without discussion. That is all I have to say about it.

Mr. MATSON. I understand, and did understand before, the position of the gentleman from Tennessee very well. I knew he was not here to make any factious opposition. But I want to inform him of the fact that the case, or perhaps the cases—I am not sure but there are perhaps more than two bills of the kind he refers to, including a bill to pension the widows of persons who were in the Life-Saving Service, and that is perhaps the case he refers to—that cases of that class have been called heretofore and passed over, and that if they were called now a discussion would be opened up and the time of this evening's session would be consumed upon them and the other cases would not be reached, there being perhaps nine-tenths of those cases which would not be objected to. I think those cases ought to be reached and that the time should not be occupied in the discussion of those about which there is dispute. I presume that would be satisfactory to the gentleman from Tennessee and to all concerned.

Therefore I move, if it is in order, and I presume it is, that we begin the call of the Private Calendar on page 37, at House bill No. 4101. [After a pause.] I accept the suggestion of the gentleman from Ohio [Mr. DAWES] to begin with bill No. 4444, on page 28 of the Calendar, and ask that we then pass from that to the bill I have indicated on page 37.

The CHAIRMAN. If there is no objection it will be so ordered.

WILSON W. BROWN AND OTHERS.

The CHAIRMAN. The Clerk will read the bill which has just been indicated by the gentleman from Indiana, [Mr. MATSON.]

The Clerk read the bill (H. R. No. 4444) as formerly amended in Committee of the Whole House, as follows:

A bill granting pensions to Wilson W. Brown and others.

Be it enacted, &c., That the Secretary of the Interior is authorized and directed to place on the pension-roll, at the rate of $20 per month, the names of Wilson W. Brown, late second lieutenant of Company F, Twenty-first Regiment Ohio Volunteers; John R. Porter, late second lieutenant of Company G, Twenty-first Regiment Ohio Volunteers; William Bensinger, late captain of Company C, Thirteenth Regiment United States Colored Infantry; John A. Wilson, late of Company C, Twenty-first Regiment Ohio Volunteers; William Pittenger, late of Company G, Second Regiment Ohio Volunteers; Martin J. Hawkins, late of Company A, Thirty-third Regiment Ohio Volunteers; Daniel A. Dorsey, late second lieutenant of Company H, Thirty-third Regiment Ohio Volunteers; Elihu H. Mason, late of Company K, Twenty-first Ohio Volunteers; William H. Reddick, late of Company B, Thirty-third Regiment Ohio Volunteers; and Rachel Slavens, widow of Samuel Slavens, a soldier executed at Atlanta, Georgia, by the confederate authorities, June 18, 1862: *Provided*, That the pensions hereby granted shall be in lieu of all other pensions that have been granted to or are claimed by any of the above-named persons under the provisions and limitations of the pension laws.

Mr. ROBINSON, of Massachusetts. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, having had under consideration the bill (H. R. No. 3486) granting pensions to Wilson W. Brown and others, respectfully report as follows:

The petitioners seeking to be benefited by this bill are known in history as the "Mitchell Raiders." In the early part of April, 1862, General O. M. Mitchell had advanced his column as far south as Shelbyville, Tennessee. On the west the battle of Shiloh had just determined in favor of the Union arms. At the east McClellan, with his Army of the Potomac, was at Yorktown, threatening an advance upon Richmond. Against these two armies of the West and East the South had concentrated their strength. General Mitchell saw then, as a bloody history so fully demonstrated subsequently, the vital importance of seizing and holding Chattanooga as a strategic point on the great railroad line between the East and West, which connected the main armies of the rebellion. The capture of Chattanooga at that crisis of the war involved also the possession of East Tennessee and the probable uprising of a strong loyal element there. The Mitchell Raiders were a body of twenty-one men under command of one J. J. Andrews, selected by General Mitchell to undertake the desperate enterprise of penetrating nearly two hundred miles south into the heart of the enemy's territory and endeavoring to destroy the wooden bridges on the railroad between Chattanooga and Atlanta. This, Mitchell hoped, would cut off the advance of troops from the South while he moved down his army and captured Chattanooga. Judge-Advocate-General Joseph Holt did not exaggerate when he said of this expedition that "in the daring of its conception it had the wildness of romance, while in the overwhelming results which it sought to accomplish it was absolutely sublime."

The account of the raid, following, is borrowed from another writer, and is correct, according to the evidence of participants:

"The soldiers of this forlorn hope, dressed in citizens clothes and representing themselves as good secessionists, set out on foot through the enemy's country by twos and threes, and, after many adventures, came together at Marietta, a point on the railroad a little north of Atlanta. The plan was to take passage on some north-bound train, and, at an opportune moment, overpower the guard, seize the engine, and drive onward with all speed, burning bridges and tearing up track as they went, and leaving a trail of flame and destruction behind them; to dash clean through Chattanooga, and meet Mitchell as he advanced along the Memphis road. It was early in the morning of April 12 when these adventurous travelers, with tickets for different points to avert suspicion, boarded the train, and finally seated themselves in the same car. At broad daylight the conductor called out: "Big Shanty; twenty minutes for breakfast," and at once passengers, engineer, and trainmen all poured into the long eating-room, leaving the engine unguarded, although it was within the lines of the rebel encampment.

"The little band sauntered forward, each falling into his appointed place, when in a twinkling, on a signal given, the passenger coaches were uncoupled, an engineer and fireman of the party sprang into the cab, the valve was pulled open, and the engine, tender, and three cars moved off as the remaining adventurers leaped into the open doors of one of the box cars. A few minutes placed the exulting party beyond what seemed to be the danger of any successful pursuit, for there was no telegraph at Big Shanty, and no other engine at hand. But it was one day too late. General Mitchell had advanced to Huntsville, and his approach was so threatening that all the rolling stock about Chattanooga had been ordered South, and the delay caused by meeting these unscheduled trains was fatal. Andrews, representing himself as a confederate officer of high rank, who had impressed the train for the purpose of running powder through to Beauregard at Corinth, excited no suspicion. But while he was losing precious minutes in waiting for the extra trains, and moving them off the track, the conductor at Big Shanty left his coffee and began the pursuit on foot until he reached a hand-car, and soon after, in a swift locomotive, which, by rare good fortune, had come down to the road, on a private track, from large iron works just in the nick of time. Before the raiders found opportunity for any serious work their pursuers were upon them. A desperate chase ensued, until finally, after a run of nearly one hundred miles, the captured locomotive, now jaded and shattered, was abandoned, and the captors scattered to the shelter of thick woods."

The whole party was captured after enduring the sufferings incident to fruitless efforts to escape their pursuit. It is unpleasant to recall the history of the treatment to which these prisoners were subjected. They were denounced as spies. They were chained together by twos by the neck, marched through the streets of Chattanooga amid the angry jeers of an infuriated crowd, and thrust into a kind of dungeon. This apartment was thirteen feet square and of about the same depth. Twenty-one men were confined here for nearly three weeks. Scanty provision was furnished and no sufficient means afforded for the removal of excrement. If we may credit the statements of survivors of the party, which are as given above, the horrors of this confinement were beyond description. When released from the dark and noisome hole their condition was pitiable, and for hours they were blinded by the light of day. Andrews, the leader, was hung as a spy. The party was removed then to Atlanta, where seven more were tried, convicted, and hanged as spies. One, Jacob Parrot, was whipped, one hundred lashes being inflicted on his back. For six months some of the survivors and for eleven months others of them were in constant apprehension of the same death by hanging as their comrades had suffered. It were better that the story of the sufferings and indignities inflicted on these heroic soldiers were left unrecited, as they were incredibly terrible as told by the survivors.

In considering this case the committee think it very clear that this raid was a military expedition. Judges Baxter and Temple, who it appears acted as attorneys to defend the men who were hanged, have lately written that they considered that they clearly showed before the court-martial that the expedition was a military one under authority and command of General Mitchell, and that the men were not spies. It is evident that the confederate government so regarded the matter, as the further trial of the survivors was stopped after the execution of Andrews and seven of the party. These soldiers, therefore, who undertook and with marvelous energy essayed the task imposed by their commander, suffered an outrage in being treated as spies and worse, which justifies their appeal for consideration.

Jacob Parrot, one of the raiders, by special act of Congress approved March 3, 1879, had his pension increased to $20 per month, as will be seen in the following statement from the records of the Pension Office:

"Persons referred to in bill 3486.

"Wilson W. Brown, pensioner, at $12 per month, for gunshot wound left knee and hand, received at Chickamauga, September 20, 1863.

"William Pittinger, pensioner, at $18 per month, for disease of lungs and liver, contracted while prisoner of war, captured April 15, 1862, on raid.

"Martin Hawkins, prisoner, at $8 per month, for scurvy and debility, contracted in prison at Chattanooga.

"Daniel A. Dorsey, pensioner, (papers out of file.)

"Jacob Parrott, pensioned under general laws, at $8 per month, for injury of back, caused by whipping, while prisoner of war; pension increased to $20 per month by special act, approved March 3, 1879.

"John R. Porter, claimant for pension on account of right hernia, contracted in March, 1865.

"William Bensinger, applicant for pension on account of bronchitis and piles, contracted while captain of Company C, Thirteenth United States Colored Infantry.

"John A. Wilson has not applied for pension under the general law.

"Elihu A. Mason, applicant for pension on account of scurvy and results, contracted while a prisoner of war at Atlanta.

"Rachel Slavens, widow of Samuel Slavens, pensioned under certificate 68918, soldier was executed at Atlanta, Georgia, June 18, 1862."

The committee report a substitute for the bill, which provides that the names of Wilson W. Brown, William Pittinger, Martin Hawkins, Daniel A. Dorsey, John R. Porter, William Bensinger, John A. Wilson, Elihu Mason, and Rachel Slavens shall be placed on the pension-roll at $20 per month, and that this shall be in lieu of all pensions heretofore allowed or claimed to be due to any of said persons, and recommend its passage by the House.

The CHAIRMAN. In the absence of objection the bill will be laid aside to be reported favorably to the House.

Mr. MCMILLIN. I call for a vote on the bill. I do not wish it to be understood as going by unanimous consent.

The question being taken, it was decided in the affirmative, and the bill as amended was laid aside to be reported favorably to the House.

Mr. MCCOID. I give notice that I will offer some amendments in the House.

ELISABETH BRAY.

The CHAIRMAN. The Clerk will now read the first of the pension bills on the Calendar which have not been heretofore called.

The Clerk read as follows:

A bill (H. R. No. 4101) for the relief of Elisabeth Bray.

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 Elisabeth Bray, widow of E. Bray, late a private in the Eighth Tennessee Volunteer Cavalry.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Elisabeth Bray, having had the same under consideration, would respectfully report as follows:

That Elisabeth Bray is the widow of Edward Bray, who enlisted in the United States service on the 10th day of October, 1863, in Hawkins County, Tennessee, under Major W. W. Willis, of the Eighth Tennessee Cavalry, but before muster into service said Bray was killed in battle on the 6th day of November, 1863, near Rogersville, Tennessee.

No record of his service having been made, her claim for pension was rejected on this ground.

But that Edward Bray was a soldier duly enlisted, though not mustered, is proven by the affidavits of the officers of his regiment and company.

They state, under oath, that he was enlisted on October 10, 1863, and on the 6th of November following, while in line of duty, was killed in battle.

This affidavit is sworn to by William B. Davis, late major of the regiment, L. M. Jarvis, late captain of Company E of the regiment, and F. M. Turner, late lieutenant in the same company. They further swear that from neglect or ignorance of duty no military record was kept of said Edward Bray by the officers whose duty it was to keep the rolls of said command.

In view of these facts, your committee feel that this is a meritorious case for special relief. They therefore report favorably and recommend that the bill accompanying this petition be passed.

The bill was laid aside to be reported to the House with the recommendation that it so pass.

LEWIS BLUNDIN.

The next pension business on the Private Calendar was the bill (H. R. No. 1462) 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, late 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 Committee on Invalid Pensions reported the following amendment:

After the word "Volunteers," in line 7, strike out the words:

"Who was stricken down by disease during Sherman's campaign from Atlanta to the sea, which resulted in paralysis."

The amendment was agreed to.

The report was read, as follows:

This committee, to whom was referred the bill of the House No. 1462, have considered the same, and adopt the report made to the Forty-sixth Congress by the Invalid Pension Committee:

"The petition of Lewis Blundin sets forth that he enlisted in Company C, Twenty-eighth Pennsylvania Volunteers, on July 20, 1861, and was mustered out by reason of expiration of term of service on July 20, 1864; that he again enlisted on March 20, 1865, in Company C, First Army Corps, Third United States Veteran Volunteers, for one year, and was discharged March 29, 1866, on expiration of term of service.

"He now claims pension by reason of disability incurred in the service and in line of duty; that his disability is paralysis and chronic rheumatism, the result of exposure, and an attack of typhoid fever; that he was treated for said fever and rheumatism in 1864 in a field hospital near Resaca, Georgia.

"The records of the War Department show service as above claimed, but furnish no evidence of his disability."

"John E. Littleton makes affidavit that he was lieutenant in Company C, Twenty-eighth Pennsylvania Volunteers; swears claimant was disabled about May 15, 1864; that from want of shelter, and from exposure, Blundin contracted typhoid fever, was a patient in field hospital, was returned to duty, and by reason of his weakened condition and exposure was attacked with rheumatism, and again became a patient in the field hospital. The affidavits of five witnesses show their acquaintance to have extended over a period of fifteen years prior to the filing of the claim; were his neighbors; knew him to be a perfectly sound and healthy man at the date of his first enlistment; that on his return home after first discharge he was greatly changed and complained of rheumatism; told affiants that he contracted disability in the service; that his health having somewhat improved he again entered the service, and returned a broken-down man; informed affiants that he had not been able to perform manual labor; and since 1868 has been the worst cripple affiants ever saw, even is an object of pity.

"William C. Todd, M. D., makes affidavit that his knowledge of claimant dates from March, 1868; that he finds paralysis of left side, lower part of body, and visceral organs; that he is incapable of performing manual labor; disability caused by chronic inflammation of the spinal cord, which may have been the result of exposure in the United States Army.

"W. H. G. Griffith, M. D., makes affidavit that he has treated claimant professionally since 1870, for paralysis of left side and visceral organs; believes the disability originated from sickness, medical maltreatment, and exposure while in the United States Army; his habits good and temperate.

"Samuel Lovett, examining surgeon, reports disability, resulting from typhoid fever; paralysis, rheumatism, and spinal disease; in his opinion disability originated in the service; that one side of claimant is useless; the sphincter muscles of the anus and bladder are also paralyzed, has no power over their functions; has rheumatic symptoms; affection of spine is the result of fever.

"The records of the field hospital are not on file in office of Surgeon-General. Claimant is unable to discover the regimental surgeon.

"The committee are of the opinion that the bill should pass, and they therefore recommend the passage of the bill as amended."

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

EMMA A. PORCH.

The next business on the Private Calendar was the bill (H. R. No. 4877) for the relief of Emma A. Porch.

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 Emma A. Porch, of Centre Town, Missouri, at the rate of $50 per month, for disability contracted while employed as a scout under the direction of general officers in command of the Union forces during the war of the rebellion.

The Committee on Invalid Pensions reported the bill with the following amendment:

Strike out all after the word "Missouri," in line 6, namely, these words:

"At the rate of $50 per month, for disability contracted while employed as a scout under the direction of general officers in command of the Union forces during the war of the rebellion."

The amendment was agreed to.

The report was read, as follows:

This committee, to whom was referred the bill of the House No. 4877, have considered the same, and finding the facts correctly reported by the Committee on Invalid Pensions in the Forty-sixth Congress, adopt said report which shows:

"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 in the Department of the 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.

"Your 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 report back the bill with an amendment, to strike out all after the word "Missouri" in line 6, and thus amended recommend that it do pass.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

NEWTON BOUTWELL.

The next business on the Private Calendar was the bill (H. R. No. 5684) granting a pension to Newton Boutwell.

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 Newton Boutwell, of Morrisville, Vermont, as a dependent father.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 3127) granting a pension to Newton Boutwell, submit the following report:

This committee have considered House bill No. 3127 and find the following facts:

That the claimant, Newton Boutwell, who resides in Morrisville, in the State of Vermont, now seventy-four years of age, contributed to the Union forces in the late civil war four sons, namely, Thomas N. Boutwell and Robert T. Boutwell, both of Company D, Fourth Regiment of Vermont Volunteers; Rodney M. Boutwell, of Company F, Eleventh Regiment Vermont Volunteers; and William C. Boutwell, of the Sixteenth New Hampshire Regiment.

That the son, Thomas N. Boutwell, died of disease contracted in the service soon after the close of the war, and after his return from the Army to Vermont.

That Robert T. was wounded in the battle of the Wilderness, and died while a limb was being amputated.

That Rodney M. was also wounded in the battle of the Wilderness, and died soon after from effects of wound.

That William C. died in hospital near Baton Rouge, Louisiana, of disease contracted in the service.

That at the time of the enlistment of these boys the said Newton Boutwell was the possessor of considerable property, but was involved pecuniarily and did not call himself worth more than about one thousand dollars, which, on account of failing health and adverse circumstances, he has since wholly lost, and is now absolutely destitute, his property having been swept away by a mortgage upon it at the time of the enlistment of his said sons. That the mother of these boys died when the youngest, Rodney M., was about ten years old. That while in the service the said Rodney M. sent his father, the said Newton Boutwell, a portion of his pay, he at that time being under twenty-one years of age; and that the father, in his mind, had selected this as the son who should remain at home with him and take care of him in his old age.

The fact that at the time of the enlistment and service of these boys the said Newton Boutwell was in comfortable health and could earn a livelihood, coupled with the fact that at that time he had some property, prevents him from obtaining a pension under existing laws. But your committee, in view of the fact of the loss in the service of his four only sons, and of his present complete destitution, and the fact that the said Rodney M. did contribute to the support of his father while in the service, are compelled to look upon this as a case in which Congress may well exercise the power which it possesses and grant a pension to this applicant.

The committee recommend the passage of the accompanying substitute bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ELIZA HUDSON.

The next business on the Private Calendar was the bill (H. R. No. 1554) granting a pension to Eliza Hudson.

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 Eliza Hudson, widow of William L. Hudson, late a captain in the United States Navy, and pay her a pension at the rate of $50 per month during her widowhood, in lieu of the pension she now receives, from and after the passage of this act.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill of the House No. 1554, have considered the same, and beg leave to report that the claimant, Eliza Hudson, is the widow of the late William L. Hudson, captain in the United States Navy, who died on the 15th of October, 1862, of disease contracted in the service in the line of his duty.

The claimant is now seventy-eight years of age, and has no means of support except her pension of $30 per month granted to her on the 15th of Octobor, 1862.

The committee find that Captain Hudson entered the naval service of the United States as a midshipman January 1, 1816, and served in the navy-yard, New York, the brig Dolphin, and sloop of war Cyane until 1825; was promoted to lieutenant in 1826 and ordered to the sloop of war Warren, remaining in her a long cruise, during which he was engaged, with distinction, in the suppression of pirates in the Grecian Archipelago; was wounded during one of the engagements, receiving a bullet in one of his legs, which could not be removed, and the effect of which he felt the remainder of his life.

In 1830 he returned and was on leave of absence until 1833, when he was stationed at the New York yard, where he remained until 1838, and was then ordered to the command of the sloop of war Peacock, engaged in the United States exploring expedition, for a term of four years. November 2, 1842, was commissioned as a commander, and from 1843 to 1847 was executive officer of the navy-yard, New York, rendering efficient service and arduous duty in that position during the Mexican war.

Commanded the sloop of war Vincennes in the Pacific squadron from 1849 to 1852; was again executive officer of the navy-yard, New York, until 1856; promoted to captain September 14, 1855, and in 1856 he was detached from the yard and awaiting orders until 1857, when he was ordered to the frigate Niagara, and the command of the important expedition engaged in laying the first Atlantic submarine telegraph cable. After the successful accomplishment of this famous mission he was ordered as commandant of the naval station, Boston, and remained for three years, during which period the rebellion was at its height, and the duties

performed were unusually arduous and responsible. He was detached from the Boston station April 30, 1862, and appointed light-house inspector of the New York district, on which duty he was engaged up to the time of his death.

The committee recommend the passage of the bill.

Mr. BURROWS, of Michigan. Does this bill provide for the payment of $50 a month?

The CHAIRMAN. From the passage of the act.

Mr. BURROWS, of Michigan. It seems by the report that this person is already receiving a pension of $30 a month. The proposition is to increase that pension to $50 a month. It seems to me that such a bill ought not to pass, unless there is some very special reason for it.

Mr. RANDALL. The death of the husband of this lady can be traced directly to disease contracted while he was in the line of his duty. This widow is a very old lady, now seventy-eight years of age. I am informed that she is in feeble health, and it is not likely that she will live much longer. She is dependent for support solely on her pension, and $30 a month is inadequate for that purpose. We have had other cases of a like character.

Mr. BURROWS, of Michigan. Do I understand that this increase takes effect only from and after the passage of this bill?

Mr. RANDALL. That is all.

Mr. BURROWS, of Michigan. I will not make any objection to it.

There being no objection, the bill was laid aside to be reported favorably to the House.

ELIZABETH F. RICE.

The next pension bill on the Private Calendar was the bill (H. R. No. 5018) granting a pension to Elizabeth F. Rice.

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 Elizabeth F. Rice, of Osceola, Iowa, formerly of Mercersburgh, Franklin County, Pennsylvania, widow of Perry A. Rice, who died in Libby Prison, Richmond, Virginia, February 28, 1863, having been captured by General J. E. B. Stuart, in a raid through Pennsylvania, on the 10th day of October, 1862, and that she be paid the sum of $8 a month from the date of the death of her husband, and during her widowhood.

The Committee on Invalid Pensions recommend that the bill be amended by striking out the words at the end of the bill "from the date of the death of her husband and during her widowhood."

The report was read, as follows:

Elizabeth F. Rice is the widow of Perry A. Rice. On the 10th day of October, 1862, when General J. E. B. Stuart made a raid on Mercersburgh, Pennsylvania, Rice was captured, with several others, and taken South and confined in Libby prison. After a confinement of five months he took sick and died. His death was the result of the exposure and hardships of his prison life. Rice was a citizen and not in the military service. He was taken and held by the confederates as a hostage to secure the safety of certain confederates held in custody by the United States. This bill puts his widow on the pension-roll at $8 per month. The committee recommend the passage of the bill with the following amendment: strike out the words "from the death of her husband and during her widowhood."

The question was upon agreeing to the amendment reported from the Committee on Invalid Pensions.

Mr. HEPBURN. I hope that the amendment reported from the Committee on Invalid Pensions may not be adopted. This is one of the exceptional cases which it seems to me should receive the favorable action of this committee. There is perhaps no other case like it. So far as my knowledge goes, no other case like it occurred during the whole war.

The husband of this lady was not in the military service. As the report says, he was taken prisoner by the confederate forces and held as a hostage, and during the time he was in Libby prison he died, leaving his family nearly in destitute circumstances. His wife has been able to feed and clothe his children, but not to educate them, particularly the two younger ones, unmarried girls. It seems to me this is a case in which arrearages of pension should be granted, and I hope the Committee of the Whole will take that view of it and not adopt this amendment. So far as the latter words of the clause proposed to be stricken out are concerned, I am not at all particular; but it seems to me that arrearages ought to be granted in this case.

Mr. BROWNE. I would like to have the attention of the committee while I state the facts in this case: In 1862 or 1863, during a raid of General J. E. B. Stuart into the State of Pennsylvania, this man Rice, and five or six other citizens of that State, were captured by the confederate forces and taken South by them, and held as hostages in one of the Southern prisons. During the time that Rice was thus imprisoned he took sick and died. Being a citizen, not a soldier, his widow was not entitled to receive a pension under the general pension laws.

She applied to Congress for a pension some years ago; how long ago I do not now remember. The Committee on Invalid Pensions of the House, in at least one former Congress, reported favorably upon her case, but the bill failed to pass, as bills of this character often do, for want of time to consider it.

The Committee on Invalid Pensions of this House, as is apparent from their report, have acted favorably upon this bill, although in doing so we made a clear departure from the rule to which I think we ought in the main to adhere; that is, this bill puts upon the pension-roll the widow of one who never was in the military service.

The reason why the committee did not in this case act favorably upon so much of the bill as provides arrearages of pension is this: we thought that this widow occupied no higher position certainly, and had a no more equitable claim than the widow of a soldier who had died in the military service in the line of his duty. In all such cases, where the case was not one that the Pension Office could consider and favorably act upon—and we could have jurisdiction only of such cases—I say that in all such cases the Committee on Invalid Pensions, not only during this Congress but during preceding Congresses, have refused to grant arrearages of pension. In other words we have never granted arrearages of pension in such cases by a special act of Congress. We think that where the case is one that does not come within the provisions of the general statutes upon the subject, is a case where an appeal must be made to Congress for special relief, is an exceptional case to the general rule, we do liberally by the claimant if we grant a pension to date from the passage of the act.

There is another reason that I believe I have had occasion to state before; that is, that there went on the pension-rolls before the passage of the arrearages act by Congress the names of nearly 2,000 persons, soldiers in the main, which were placed there by special acts of Congress, to which the arrearages of pension act never can apply; nor can those pensioners ever receive arrearages of pension unless their cases are covered by some general statute to be passed, or unless individual personal acts are passed for the benefit of each; which as a matter of course can never be.

I may state further in this case, for I do not desire to allude to this question again, that even where soldiers or others disabled in the service, or the surviving widows of soldiers who died in the service, or their orphan children, have been placed on the pension-rolls, both before and since the passage of the arrearages of pension act, there are hundreds and thousands of instances that were not benefited by that act at all, nor can they be.

All those who have gone on the pension-roll, or who may go on it hereafter, since the 1st day of July, 1880, I believe go on the pension-rolls without the benefit of arrearages. Of the 270,000 cases now pending in the Pension Office quite 150,000 of them, should they be pensioned under the general laws, must accept their pensions without the benefit of the arrearages act.

I think the principle ought to be adopted that where relief can be obtained only by a special act of Congress the applicant ought to accept such relief from the date of the passage of the act. If we go on granting arrearages in all these cases, I do not know where we shall stop.

Mr. DAWES. While I agree in the main with the propositions of the honorable chairman of our committee, I think they do not altogether apply to this case. It seems to me there is no question of arrearages at all where the man was not a soldier, and never had a title to a pension. The only question here is, What in justice and equity and propriety ought this Government to do? This man, a man of some property, was seized as a hostage, taken to Libby prison, and there died. The question to be considered is what relief ought to be extended to the widow in such a case. Shall we give her the pension to which she would have been entitled from the date of the death of this man if he had been a soldier? I will not presume to say exactly what the measure of relief ought to be. But it seems to me the proposition here presented might be adopted without infringing upon the ground taken by the Committee on Invalid Pensions, and without impugning the principles stated by the chairman of that committee.

The amendment recommended by the Committee on Invalid Pensions was adopted.

The bill as amended was laid aside to be reported favorably to the House.

KATE WILHARLITZ.

The next pension business on the Private Calendar was the bill (H. R. No. 2910) granting a pension to Kate Wilharlitz.

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 Kate Wilharlitz, mother of Joseph Wilharlitz, late of the Nineteenth Regiment Regulars, United States Army, on the pension-roll, subject to the provisions and limitations of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2910) granting a pension to Kate Wilharlitz, have had the same under consideration, and report:

It appears that the said Kate Wilharlitz is the dependent mother of Joseph Wilharlitz, who enlisted as a private in Company I, Nineteenth Regiment United States Infantry, June 28, 1871, and served five years, when he was discharged by reason of expiration of term of service. In November, 1876, he re-enlisted in said service as a private in Company C, Second Regiment United States Cavalry, and was discharged therefrom on surgeon's certificate of disability, said certificate stating that he had chronic bronchitis.

Said soldier died on the 4th day of July, 1877, less than two months after discharge, and the attending physician states that his disease was consumption.

The claimant files an affidavit that when her son returned from the Army his voice was so weak and feeble it was difficult for him to give utterance to words by which his wants could be made known, and for that reason she failed to gain information from him as to the time and the circumstances when he was first attacked and the names of the witnesses by whom the necessary facts could be proved to entitle her to pension.

The fact of claimant's dependence upon her said son is clearly made out. Her husband is very aged, and she has two deaf and dumb children to support, one of whom is paralyzed.

Her claim for pension was rejected because the certificate of disability under which the soldier was discharged contained the statement that the soldier was a victim of said disease when last enlisted.

The committee are of opinion that the claimant has exhibited a right to pension, and therefore recommend that the bill do pass.

The bill was laid aside to be reported favorably to the House.

HEIRS OF KUNIGUNDA A. MILLER.

The next pension business on the Private Calendar was the bill (H. R. No. 2912) granting relief to the heirs of Kunigunda A. Miller, deceased.

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 John Albert, Mary Carr, (formerly Albert,) Michael Albert, and Carrie Miller, heirs-at-law of Kunigunda A. Miller, deceased, and brothers and sisters of Leonard Albert, late a private in Company F, Twenty-sixth regiment Indiana Volunteers, the arrears of pension due and heretofore authorized to be paid the said Kunigunda A. Miller, now deceased, under pension certificate numbered 129461.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2912) for the relief of the heirs of Kunigunda A. Miller, deceased, have had the same under consideration, and report:

It appears that the said Kunigunda A. Miller was the mother of Leonard Albert, who died while in the military service of the United States as a private in Company F, Twenty-sixth Regiment Indiana Volunteers. It appears that after the death of her said son Mrs. Miller applied to the Pension Office for pension, which was granted, and pension certificate No. 129461 forwarded to her; her pension to date from 15th January, 1869.

Kunigunda A. Miller afterward applied for the arrears of pension due her as "mother" aforesaid under acts of Congress of January 25 and March 4, 1879, which were also granted her, and certificate forwarded to her, (No. 129461,) but, by mistake in the Pension Office she is designated widow instead of mother, and the same was not paid on that account by the pension agent at Louisville. Before the mistake could be corrected in the Pension Office Mrs. Miller died, and the claim of her heirs for said arrears was rejected. Said arrears were at the rate of $8 per month from August 30, 1863, till January 14, 1869.

It is fully shown that John Albert, Mary Carr, (formerly Mary Albert,) Michael Albert, and Carrie Miller are the children and heirs at law of said Kunigunda A. Miller, and brothers and sisters of said soldier.

The committee think that the said heirs are entitled to the arrears due their mother, and recommend the passage of the accompanying bill.

The bill was laid aside to be reported favorably to the House.

GEORGE J. WEBB.

The next pension business on the Private Calendar was the bill (H. R. No. 2349) granting an increase of pension to George J. Webb.

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 George J. Webb, late of the One hundredth New York Volunteers, for increase of pension to $20 per month.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 2349) granting an increase of pension to George J. Webb, has had the same under consideration, and begs leave to submit the following report:

The petitioner was a soldier of the One hundredth New York Volunteers, and is now the recipient of a pension of $12 per month, granted for a grapeshot wound in the head, received at the storming of Fort Wagner, causing deafness in the left ear, partial loss of vision in the left eye, and cerebral disturbances.

Since the issuance of his pension certificate for $12, granted for causes stated above, the petitioner, having totally lost the sight of his left eye, made application to the Pension Office for an increase of pension on account of the loss of his left eye. The examining surgeons of the Pension Office state that the loss of the eye is the direct result of the grapeshot wound in the head, received in the line of duty.

The Commissioner of Pensions rejected the claim, after a careful examination of the facts in the case and the medical questions involved, on the ground that $12 per month was the full rate of pension he was entitled to under the law for the degree of disability existing from wound in the head, (including the loss of the left eye.)

The medical examination had, under the rejected claim for increase, shows the following disabilities: grapeshot wound of left side of face and head; missile entered left side of face, fracturing the molar bone, and removing one-half of the helix and antihelix of left ear, and causing total blindness of left eye, and total deafness of left ear; cicatrices adherent.

There is some deformity of face and loss of motion in muscles. Sight of right eye considerably impaired, probably due to sympathetic irritation.

It is evident that the disability in this case is greater than that recognized by the Pension Office, and therefore the committee reports favorably on the bill, and asks that it do pass.

The bill was laid aside to be reported favorably to the House.

PATRICK SULLIVAN.

The next pension business on the Private Calendar was the bill (H. R. No. 1873) for the relief of Patrick Sullivan.

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 increase the pension from $18 to $30 per month of Patrick Sullivan, late of Company K, Eighty-second Regiment Illinois Volunteer Infantry, for loss of left leg just below the knee, rendering him helpless as though his limb were amputated above the knee, and also for rupture on the left side, which wholly incapacitate him for the performance of manual labor.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 1873) for the relief of Patrick Sullivan, has had the same under consideration, and begs leave to submit the following report:

Sullivan is a pensioner at $18 per month for loss of leg below the knee. He applied for increase June 29, 1880, on account of hernia, alleged to have been contracted by assisting in lifting wagons at the battle of Fredericksburgh, Virginia. The Pension Office, without affording the claimant an opportunity to establish the claim for the additional disability, rejected the application for increase on the ground that the loss of leg and rupture combined, if the latter were shown to be due to the service, would not disqualify the soldier for the performance of "any manual labor," as required by statute, to give title to a higher rate of pension than that now received by Sullivan.

The petitioner has appeared before this committee, and an examination of the amputated limb "shows that he suffered amputation in the upper third of the left leg, leaving a short stump, which, owing to muscular contraction, is constantly and strongly flexed, and cannot therefore have any artificial limb adapted to it in the usual manner, but the weight of the body in standing rests upon the flexed knee and stump, causing painful irritation and excoriation of the parts." His limb is consequently in even a worse condition than if the limb had been amputated above the knee. He also suffers from inguinal hernia, and, in the opinion of your committee, is entitled to additional pension on that account; and it is therefore recommended that the bill be so amended as to entitle him to increase of pension to $28 per month from and after its passage.

The question being taken on the amendment recommended by the Committee on Invalid Pensions to reduce the proposed pension from $30 to $28 per month, it was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

ARTHUR W. IRWING.

The next pension business on the Private Calendar was the bill (H. R. No. 3048) granting a pension to Arthur W. Irwing.

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 Arthur W. Irwing, late a private in Company C, One hundred and fourth Regiment of New York Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 3048) granting a pension to Arthur W. Irwing, have considered the same, and beg leave to submit the following report:

Irwing enlisted May 30, 1861, in the Seventeenth Regiment New York Volunteers, and was discharged January 22, 1862, on surgeon's certificate of disability because of chronic rheumatism, which, according to the surgeon's certificate, had distorted the neck. He re-enlisted March 18, 1862, in Company C, One hundred and fourth New York, and served in that command and the Veteran Reserve Corps until September 5, 1866. It is not very clear from the papers on file when he was transferred to the latter organization; but as a cause for transfer "stiff neck" appears on the rolls.. He applied for pension September 7, 1868, on account of curvature of spine, which he alleges followed an attack of typhoid fever in August 1862.

The claim has been rejected by the Pension Office because the record shows the existence of rheumatism, which is accepted as cause for present disability, prior to the service in which its origin is alleged. The claimant's soundness at time of his original enlistment is fully established; that he was attacked with typhoid fever and sent to hospital is also shown by the testimony of comrades, as well as his suffering from rheumatism shortly after recovery. There is record evidence of his admission to the hospital about the time alleged by claimant, and at different times thereafter, but, strange to say, the nature of the disease for which treated is not shown by the records of the several hospitals. In explanation of the record of his first service, claimant states and shows by the testimony of the surgeon of the One hundred and fourth Regiment New York Volunteers, that he was free from rheumatism at the time of his enlistment in said regiment, but that while in said first service he contracted jaundice and swelled neck, from which he thought he had recovered when he re-enlisted.

Medical examination by the Dayton, Ohio, board of surgeons finds that claimant is suffering from rheumatism. His head is thrown forward very much and is permanently fixed in that position. Cannot move his head without moving his entire body. Has considerable lateral curvature of spine, is emaciated, and totally disqualified for performing any manual labor.

In the opinion of the committee the evidence is conclusive that the soldier was sound when he entered the service; that he contracted his disease while in service and, in the absence of any evidence to the contrary, it must be presumed, in line of duty; and that he has been disabled continuously since discharge; they therefore report favorably on the bill, and recommend its passage.

The bill was laid aside to be reported favorably to the House.

SOLOMON J. GRISSON.

The next pension business on the Private Calendar was the bill (H. R. No. 435) granting a pension to Solomon J. Grisson.

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 Solomon J. Grisson, late a corporal of Company E, Twentieth Regiment Kentucky Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 435) granting a pension to Solomon J. Grisson, has had the same under consideration, and begs leave to submit the following report:

Grisson enlisted November 7, 1861, in Company E, Twentieth Kentucky Volunteers, was mustered January 6, 1862, and discharged January 17, 1865. His claim for pension on account of lung disease, resulting from measles contracted shortly after enlistment, was rejected by the Pension Office because there is no record of alleged disability, and the claimant is unable to furnish the evidence required under the rules governing the adjudication of pension claims.

An examination of the papers filed in the Pension Office shows that considerable evidence has been filed in support of the claim, which, in the opinion of the committee, is entitled to consideration. That claimant was sound at enlistment is clearly shown by the testimony of his neighbors and of the lieutenant of the company. The latter also testifies that Grisson contracted measles before the regiment was fully organized, took cold, and thereafter appeared to be troubled with disease of lungs and chest. Neighbors testify that upon his return from service the claimant was ailing and unable to do full or heavy work. In August, 1866, he came under the treatment of Dr. F. J. Sullivan for disease of both lungs, as appears from the latter's affidavit. Examination had by a Pension Office surgeon shows the existence of lung disease.

The inability of the claimant to furnish the affidavit of the regimental surgeon as to treatment for measles in service is explained by one of the officers of the company, who testifies that he has tried, in the interest of other members of the company to get up correspondence with the surgeon, but has failed to receive any reply.

Believing that Grisson had measles in service, as testified by the lieutenant, and that subsequent exposure resulted in disease of the lungs, from which he is still suffering, the committee reports favorably on accompanying bill, and recommends its passage.

The bill was laid aside to be reported favorably to the House.

JACOB R. M'FARREN.

The next pension business on the Private Calendar was the bill (H. R. No. 369) granting a pension to Jacob R. McFarren.

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 Jacob R. McFarren, late a private in Company F of the Eighty-sixth Regiment of Illinois Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 369) granting a pension to Jacob R. McFarren, has had the same under consideration, and begs leave to submit the following report:

The said McFarren was a private in Company F, Eighty-sixth Regiment Illinois Volunteers, from August 11, 1862, till discharged for disability, February 12, 1863.

The certificate of disability sets forth that the soldier is unable to perform military duty because of hydropericardium. In his application for pension, McFarren alleges that while in said service and in line of duty, in November, 1862, after forced marching under General Buell, around Louisville, Kentucky, then to Crab Orchard, Kentucky, and immediately after battle of Perryville, Kentucky, he broke down, and as soon as he reached Camp Edgefield, Tennessee, his legs turned purple and swollen and spotted, and he was sent to hospital barracks at Gallatin, Tennessee, when he took bloody piles and dropsy of chest; the swelling of his legs resulted in erysipelas, which has afflicted him ever since, and the piles have become worse. He states that he cannot find his officers and procure their testimony.

The claim was rejected because the Commissioner of Pensions was of opinion that the disability was not incident to claimant's Army service.

Two of claimant's comrades in the service testify that they knew him for three years before his enlistment; that he had always been a sound man physically so far as they knew; that in October, 1862, he broke down on the march to Nashville, and had to be hauled to Camp Edgefield. His legs were spotted and badly swollen; had rheumatism and diarrhea also. Saw him after the war, and he was worse.

R. A. Moore, a comrade in the service, says claimant was sound when enlisted; that claimant broke down in October, 1862, on the march to Nashville; legs spotted and swollen; had rheumatism and diarrhea; limbs broke out with erysipelas, and was sent to hospital at Gallatin; and up to 1870, when affiant last knew him, claimant was still suffering from said diseases.

William M. Reed states that he saw claimant immediately after his return from the Army in 1863. He was then a used-up man, and suffering from erysipelas of legs, diarrhea, piles, and rheumatism.

Dr. P. J. Jennings testifies that he began to treat claimant for abscess, hemorrhoids, and chronic rheumatism in December, 1874; that the abscess yielded to treatment, but not the other diseases. They were only palliated. Claimant is not able to perform more than one-fourth manual labor. The doctor states that he had dropsy also, but had recovered therefrom, and that his habits are good.

Dr. H. T. Cooper testifies that he has known claimant since June, 1877, when he began to treat him for bloody piles and dropsy; that claimant had also suffered since that time from rheumatism.

P. N. Terwilliger testifies soldier was sound when enlisted; since his return from service has had erysipelas, piles, diarrhea, and rheumatism.

There is a great mass of other testimony, professional and lay, all of which is to the same effect as the above.

James P. Dimmuth, examining surgeon, certified September 24, 1878, that claimant is wholly incapacitated for obtaining his sustenance by manual labor, and continues: "I find claimant suffering from external and internal bleeding hemorrhoids, which render him a great sufferer." He says further: "I learn that he has had erysipelas and dropsy, but find no disease at present except that above rated."

Claimant has been unable to ascertain the wherabouts of his officers, or the regimental surgeon who first treated him, therefore cannot furnish the evidence required by the Pension Office. Unfortunately the medical records of the regiment or of the hospital at Gallatin, Tennessee, in which he was treated, as shown by the report of the Adjutant-General, are not on file in the proper department.

In the opinion of the committee there is ample proof that the petitioner was a sound man at enlistment; that he contracted diseases by reason of the exposures incident to a campaign, and that by reason of said diseases he has been to a great extent disqualified for the performance of manual labor ever since discharge, and therefore reports favorably on the bill, and asks that it do pass.

The bill was laid aside to be reported favorably to the House.

HENRY STRAWBRIDGE.

The next pension business on the Private Calendar was the bill (S. No. 240) granting an increase of pension to Henry Strawbridge.

The bill was read, as follows:

Be it enacted, &c., That Henry Strawbridge, late a private in Company G, One hundred and thirteenth Regiment Ohio Volunteers, be, and he is hereby, granted and allowed, from and after the passage of this act, a pension at the rate of $24 per month; and the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of said Henry Strawbridge on the pension-roll at said rate, (in lieu of the pension now paid him.)

Mr. JOYCE. In each of the cases thus far considered, the report has been read; and the Committee of the Whole can thus understand how carefully the cases have been considered by the Committee on Invalid Pensions. I suggest that hereafter the reports be printed in the RECORD without reading, unless in some particular case some member desires the reading of the report.

Mr. PRESCOTT. I wish to hear the report read in this case. The bill is for an increase of pension.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. No. 240) granting an increase of pension to Henry Strawbridge, have had the same under consideration, and submit as part of its report the report of the Committee on Pensions, United States Senate, in the case, as follows:

"The applicant is now receiving a pension, for anchylosis of the knee joint, at the rate of $18 per month, the rate allowed by general law. He desires an increase of his pension to $24 per month, the rate allowed by the law for loss of leg above the knee.

"The evidence shows the disability at the knee, in addition to absolute stiffening of the joint, to be attended with constant pain and acute tenderness, compelling constant care in the movement of the limb to avoid contact with obstacles of any description, thus apparently creating in this case a greater disability than if the limb had been amputated. The evidence is quite full and explicit, showing that the applicant is often confined to his room and bed for days together, by reason of severe pain in the knee, and that the well limb has become much affected because the heavy weight of his body is so constantly supported by it. The case is peculiar, and, we think, much worse than the ordinary disability occasioned either by loss of limb below the knee or permanent stiffness of that joint."

Some doubts as to the origin of the disability having arisen, the committee have examined all the papers on file in the Pension Office in support of the case, and find that upon information adverse to the soldier's title to pension three special examinations were had; the last one, in April, 1878, settling satisfactorily the question of title, as appears from the indorsement made by the then chief of the invalid division, in words as follows:

"The case has a doubtful look as to origin, but as three investigations have failed to obtain anything adverse, and the right to pension has been twice conceded, I think we can let the case rest. The charges against it have evidently been induced by malice, caused by political enmity."

The conclusions reached by the Pension Office on the evidence before them are evidently sustained, and this committee therefore report favorably on the bill, and recommend that it do pass, as nothing sufficient to place in question the deliberate and carefully-guarded action of the Pension Office has been made to appear before them.

Mr. BROWNE. I desire to say, Mr. Chairman, that serious reflections as to the propriety of allowing this pension came to the ears of the members of the committee. I know they came to mine, and I entered upon its investigation. I thought the claim from what I heard of it ought not to be allowed. Not only the sub-committee which reported to the full committee examined all the testimony in the case, but I examined it very carefully myself, although I was not on the sub-committee. I think this report is abundantly supported by the testimony. I think there is no doubt about it, although I thought at the time the investigation was begun that it was a case where there ought not to be favorable action.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MICHAEL MARION.

The next pension business on the Private Calendar was the bill (H. R. No. 1243) granting a pension to Michael Marion.

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, at the rate of $15 per month, subject to the provisions and limitations of the pension laws, the name of Michael Marion, late a private in Company A, First New York Volunteers, on account of injuries received and incurred in the Army of the United States and the military service thereof.

The report of the committee was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 1243) granting a pension to Michael Marion, has had the same under consideration, and begs leave to submit the following report:

Marion is a pensioner at $8 per month for gunshot wound of right thigh, received near Alexandria, Virginia, February 2, 1862. At the same time and place his horse fell on him and knocked his hip out of joint. For the latter disability claimant was treated in hospital, but no rating therefor was made by the Pension Office. He applied for increase September 3, 1880, but his application was rejected. The certificate of the examining surgeon shows that the ball struck the left front and passed through the right thigh near its middle, fracturing the femur. Union ensued, leaving a forward curvature of the bone, with considerable enlargement. Owing, doubtless, to the hurt of the muscles, their consequent contraction and agglutination, the knee is partially but firmly flexed, which, with the injury at the hip joint—now a partial dislocation—makes the case a grave one. The leg is about two inches short, and as he stands the right foot rests obliquely across the instep of the left one, indicating clearly the character of the hip hurt.

The disability as above described is, in the opinion of the committee, greater than recognized to be by the present rating, and, therefore, it recommends that the word "fifteen" be inserted after the word "of," in line 5 of the bill, and that the bill thus perfected do pass.

The amendment of the committee was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JAMES B. WHITE.

The next pension business on the Private Calendar was the bill (H. R. No. 1341) granting a pension to James B. White.

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. White, late a private in Company B, Sixty-second Regiment of Ohio Volunteers, on the invalid-pension roll, subject to the provisions and limitations of the pension laws of the United States.

Mr. ROBINSON, of Massachusetts. I do not ask for the reading of the report, although I did ask for the reading of the reports in these cases in the beginning. For myself, after listening to every one of those which have been read, I think the House owe to the Committee on Invalid Pensions an acknowledgment of the exact and careful performance of its duties; and relying on that, as I think the House well may, I do not ask the reports to be read, but think they should be printed in the RECORD to go along with each case.

The CHAIRMAN. The Chair hears no objection, and it will be so ordered.

The report of the committee is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1341) granting a pension to James B. White, having had the same under consideration, beg leave to submit the following report:

The committee find, from an examination of the papers originally on file in the pension claim at the Pension Office, that the petitioner was a private of Company B, Sixty-second Ohio Volunteers; that he enlisted October 4, 1861, and was discharged October 28, 1862. His declaration for pension was filed August 1, 1876, he alleging that at the battle of Winchester, Virginia, March 23, 1862, he bruised his leg by a fall on a rock fence while marching up hill, from the effects of which injury his leg has been amputated above the knee. The claim was rejected October 20, 1877, on the ground of "no record of alleged injury; inability to furnish necessary testimony."

Your committee find that there is no record of treatment in the service and no medical evidence of soundness or treatment to date of amputation. Date of amputation of leg, March 29, 1876. The petitioner, in an affidavit to the Pension Office, October 23, 1876, said that he was never treated in any hospital for the disability, but was treated by the surgeon of the regiment, Dr. Hood, who is now dead. He further swears that he cannot furnish medical evidence as to freedom from the injury at enlistment, because of the death of his family physician; nor can he furnish medical evidence as to his condition from date of discharge for the same reason, the death of his family physician. The only evidence he can furnish is that of his neighbors, which he asks may be accepted in lieu of medical testimony.

The testimony of neighbors who knew and had employed the petitioner prior to his enlistment is thorough as to the fact of the petitioner's soundness at the time he enlisted in the Army. One of the affiants states that he had had the soldier in his employ for twelve years prior to his enlistment, and that he was thoroughly sound when he went into the Army, and had no affection of his legs whatever.

Lieutenant Kohler, of the petitioner's company and regiment, swears that at the battle of Winchester, while the regiment was marching upon the enemy, March 29, 1862, the petitioner, in climbing a stone fence, fell and injured his left knee; that since that time, to affiant's knowledge, the knee continuously grew worse until amputation was rendered necessary.

Dr. Charles P. Hildreth, who amputated the limb, says that he—

"Commenced visiting the petitioner in 1876, and found him suffering a great deal of pain in the left knee; joint opened in two or three points and discharging a large quantity of pus; very much enlarged bones composing the joint carious or necrosed, and the structure of the joint disorganized. An effort was made to save the limb for two or three months. It became evident that he must lose his life or limb, and the limb was amputated March 29, 1876."

He further states that—

"The petitioner said to him that he was a cooper by trade and that he had mined coal for two years before he lost his leg, and that the disease in the joint was aggravated by getting cold and wet in the coal bank; that the joint had never been well or sound since he received the original injury at Winchester, Virginia."

The testimony of comrades is that while marching on quick time at the battle of Winchester the petitioner endeavored to cross a stone fence and fell and injured his knee, the comrades making this sworn statement alleging that they were in the rear rank immediately behind the petitioner and saw him when he fell and hurt himself; that they had a knowledge of the continuous and progressive nature of the disease up to the time his leg was amputated. The certificate of disability upon which the petitioner was discharged the service is signed by Dr. Charles H. Hood, the regimental surgeon, and finds him "incapable of performing the duties of a soldier because of his suffering from varicocele enlargement of the epididymis and testicle, both sides being affected, and is the result of exposure and hard living while serving in the pioneer corps of Shield's division."

The evidence proves conclusively to your committee that this soldier contracted the disease of the knee in the service which led to its amputation, although he is unable, through the lapse of time, removal, &c., to present to the Pension Office the necessary evidence required by the rules governing the adjudication of pension claims. The petitioner has filed some additional evidence before this committee corroborative of the statements heretofore made in the case.

After due consideration of all the evidence presented the committee are of opinion that the petitioner is entitled to relief, and therefore report favorably upon the bill and recommend that it do pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

NATHANIEL J. COFFIN.

The next pension business on the Private Calendar was the bill (H. R. No. 3000) granting a pension to Nathaniel J. Coffin.

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 Nathaniel J. Coffin, as first lieutenant of Company K, Thirteenth Regiment of New Hampshire Volunteers, war of the rebelion.

The report of the committee is as follows:

Lieutenant Nathaniel Johnson Coffin has served his country in two wars. May 4, 1847, at Fort Adams, Newport, Rhode Island, he enlisted as Nathaniel Johnson in Captain John H. Jackson's Company H, Ninth Regiment United States Volunteer Infantry, for the Mexican war. He served as a private until the war ended, and received a medal for gallant conduct at the storming of Chapultepec. An honorable discharge was given him August 2, 1848. Lieutenant Coffin again enlisted, September 27, 1862, as a private in Company K, (Captain M. T. Betton,) Thirteenth Regiment New Hampshire Volunteers, to serve in the late rebellion. He was promoted to be first lieutenant of said Company K early in 1863. Afterward, in May, 1863, while stationed with his company on the banks of the Nansemond River, in Virginia, to check the enemy's advance on Norfolk, he received a wound on the skull, which probably caused a pressure of bone on the brain. Captain Betton certifies in relation thereto as follows:

"I hereby certify that Nathaniel J. Coffin was wounded on his head by a piece of shell, or glance round shot, in the first week in May, 1863, in a picket fight in front of Portsmouth, Virginia, while officer of the guard against confederate General Longstreet's advance. Mr. Coffin was in my command, and was promoted to first lieutenant but two months previous to his being wounded."

This wound, it is claimed, induced severe and continued pains in the head, mental confusion, and a partial loss of memory for several years. At any rate, in consequence thereof Lieutenant Coffin resigned his command, and was honorably discharged June 9, 1863, at Fortress Monroe.

In 1871 he joined the Polaris expedition; served on board the Polaris as ship's carpenter from June 1, 1871, to November 10, 1873, and during this expedition, in common with his comrades, suffered very great hardships.

The records of the War Department fail to show that the claimant was wounded, as testified to by himself and Captain Betton, and his application for a pension has been rejected on the ground that "the claimant seems to be unable to furnish such testimony as to justify this office in taking favorable action in the premises." Lieutenant Coffin is now an old man, in feeble health, and very poor. Without questioning the propriety of the decision at the Pension Bureau and the evidence there filed, your committee are of the opinion that this aged veteran's unquestioned patriotism and gallant conduct, by imperiling his life for his country in two great wars, and by enduring even greater peril and more severe exposure in the Polaris expedition, is fairly entitled, in his old age and poverty, to receive a gratuity pension for the few remaining years of his life.

We therefore recommend the passage of the bill, amended as follows: Strike out "subject to the provisions and limitations of the pension laws," in fourth and fifth lines. Add, at the end of eighth line, "at the rate of $12 per month."

The amendment of the committee to strike out the words "subject to the provisions and limitations of the pension laws," and, in line 8, to add, "at the rate of $12 per month," was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

THOMAS ALLCOCK.

The next pension business on the Private Calendar was the bill (H. R. No. 1188) granting a pension to Thomas Allcock.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place the name of Thomas Allcock, a private in Company F, Third Artillery, during the Florida war, upon the invalid-pension roll, at the rate of $8 per month, from the 1st day of July, 1852, and to continue during his natural life.

The report of the committee is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1188) granting a pension to Thomas Allcock, having had the same under consideration, beg leave to submit the following report:

It appears that the petitioner is an invalid soldier of the Seminole war, having served as private, Company F, Third United States Artillery, and honorably discharged after three years' service. He applied for pension in 1852, and was informed that claim was not admissible on the proof under general law. On the 21st of June, 1872, there appears to have been an application filed by him alleging "that he served in said Florida war three years; that he received a sunstroke while in said service, and while on duty as sentry on the 6th day of July, 1839; and that Thomas Haley, mentioned in the annexed affidavit, was present at the time; that in consequence of such sunstroke he was totally blind for six days, and has lost the sight of one eye entirely; that a written discharge was granted him by Major Thomas Childs, at Fort Pierce, Florida, which is in the Department at Washington, filed on application for bounty-land."

The Adjutant-General's Office reports him sick in hospital at the time alleged by him; and there is ample proof in the case to show that it is a just and meritorious one, well worthy of consideration.

The Committee on Invalid Pensions, House of Representatives, reported favorably in the case as far back as February 4, 1858, and say then:

"For this permanent injury to his eyes, rendering them perfectly useless for the remainder of his life, received in the service of his country, the committee think he is justly entitled, in some degree, to the consideration of the Government."

Your committee at this time heartily renew this recommendation, and recommend the passage of the bill (H. R. No. 1188) granting a pension to Thomas Allcock.

The amendment of the committee to strike out "1st day of July, 1852, and to continue during his natural life," and in lieu thereof to insert "passage of this act" was agreed to, and the bill as amended was laid aside to be reported to the House, with the recommendation that it do pass.

JAMES K. STURTEVANT.

The next pension business on the Private Calendar was the bill (H. R. No. 1373) granting a pension to James K. Sturtevant.

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 James K. Sturtevant, late a private in Company B, First Regiment Oregon Mounted Volunteers in the Indian war of 1855 and 1856, for wounds received in action; and that he be paid a pension at the rate of $8 per month from and after the passage of this act.

The report of the committee is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1373) granting a pension to James K. Sturtevant, having had the same under consideration submit the following report:

This claim has been under investigation in the Pension Department, and on the 6th of March, 1880, was rejected on the ground that "claimant was not in the United States service so as to entitle him to a pension under the pension laws."

An examination of the evidence presented to the committee establishes the following state of facts:

First. It is shown by letter of Second Auditor, dated Washington, District of Columbia, 1879, that James K. Sturtevant enrolled October 18, 1855, in Captain O. Humason's Company, B, First Regiment Oregon Mounted Volunteers, and was discharged May 19, 1856, as per General Order, No. 32, of that date, and that he performed further service in Captain A. V. Williams's Company, Oregon Mounted Volunteers, from January 18 to August 11, 1856, as shown by the records of the War Department.

Second. James M. Kelley, one of the supreme judges of Oregon, under oath, states that in 1855 he was commissioned lieutenant-colonel of the First Regiment of Oregon Mounted Volunteers, and as such officer was in command of five companies of that regiment, including Company B, Captain Orlando Humason; that James K. Sturtevant was a private in said Company B; and that on the 7th day of December, 1855, an engagement took place with hostile Indians along the Walla Walla Valley, in Washington Territory, in which said Sturtevant was dangerously wounded—so dangerous that the surgeon of the regiment reported he could not recover; that he was sent to hospital and finally recovered; that the said Sturtevant was wounded in said engagement, in the line of his duty, by a gunshot in his breast; and that the captain and first lieutenant of said Company B are both dead.

Third. James McAuliff, on oath, states that he was second lieutenant of Company B, in said regiment, and further fully corroborates the statement of Lieutenant-Colonel James M. Kelley.

Fourth. Stocy Hemenway, M. D., upon oath, states that he had, under an appointment from the Pension Department, personally examined James K. Sturtevant, an applicant for pension, and certified that he had been wounded by a gunshot in right breast, passing through body, which incapacitates him for performance of heavy manual labor.

Fifth. It further appears from the records of the War Department that the First Regiment of Oregon Mounted Volunteers were called into service by order of the governor of Oregon to quell Indian disturbances, and that they were afterward paid by the United States under act of March 2, 1861, granting them the same pay and allowances as regular troops.

The foregoing are the facts, and may be regarded as showing clearly a meritorious case.

It seems the Pension Department, in construing the act of March 2, 1861, have held the term in said act "and allowances" does not include pensions, and for that reason alone have rejected this claim. Without inquiry, or any expression of opinion as to the correctness of that decision, we have no hesitation in saying the records and the proofs submitted to us show that this is a just and meritorious claim, and that the claimant, Mr. Sturtevant, is entitled to a pension.

We therefore respectfully return the bill, with a favorable report, and do recommend its passage.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ELISA A. MURRAY.

The next pension business on the Private Calendar was the bill (H. R. No. 1336) granting a pension to Elisa A. Murray, reported adversely.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elisa A. Murray, dependent mother of Dwight E. Murray, late a private in the Ninth Ohio Battery.

Mr. MOREY. I ask that the adverse report be read.

The Clerk read as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1336) granting a pension to Elisa A. Murray, have had the same under consideration, and beg leave to submit the following report:

The committee find, from an examination of the papers on file in the original pension claim at the Pension Office, that the petitioner is the mother of Dwight E. Murray, who was a private in the Ninth Ohio Battery, and who was killed while

in the service; that he enlisted October 11, 1861, and died September 17, 1863. The mother's application was filed November 10, 1878, and was rejected by the Pension Office August 6, 1879, on the ground that the soldier at the time he was killed was not in the line of duty.

The evidence in the case shows the dependence of the mother upon the soldier and his contributions to her support. The Adjutant-General's report in the case reports him absent without leave since September 17, 1863, supposed to have been captured by guerrillas. He was afterward marked as a deserter on subsequent rolls. The evidence of officers and comrades on file in the case shows that the soldier with one or two comrades started out with the implied permission of their officers upon a foraging expedition while the company was encamped near Tullahoma, Tennessee; that while out upon such an expedition they were killed by bushwhackers, their bodies found, but no record made of their death on the company rolls. Lieutenant Cowles, of the company, states that the soldier came to his tent with one John Wilson, a comrade, and said they were going foraging in the country. The officer further states that he loaned to the deceased soldier his revolver and that they took with them two good horses. Comrades of the deceased soldier state that they had personal knowledge of the deceased and his comrade Wilson starting out on the foraging hunt, and that it was with the implied permission of their officers; that such permission had been allowed to the men of the command very frequently, and that they did not deem it any transgression of orders, inasmuch as their absence was with the full knowledge of the officers of the company. They further show that the soldier was killed while on this expedition, having been shot by bushwhackers, or guerrillas, with whom the immediate country was infested.

In the absence of a record that the soldier was away with leave, the Pension Officer rejected the claim.

The death of the soldier is fully proven, and also the fact that his absence from camp was known to his officers and with their implied permission.

A majority of the committee in this case recommended that the bill be reported adversely.

Mr. MOREY. I desire to say, Mr. Chairman, in support of my motion that this bill be reported to the House with a favorable recommendation, that the report of the committee in this case discloses the fact that this soldier, who lost his life on this occasion, had been in the military service of his country for a period of two years. The report also discloses the fact that he left a mother, to whom he had contributed support and who was dependent upon him for that support. The fact is further disclosed that the Pension Office rejected the application for a pension on the ground that the record of the military history of this soldier did not show he was absent with leave at the time he lost his life.

Now, sir, it is within the knowledge of many gentlemen who are present here to-night in this committee, rigid discipline was enforced in our Army at that period.

It is well known, sir, that at that time our army, and this army to which this soldier belonged, was in the midst of the enemy's country; and that the soldiers were dependent in some degree at least for their subsistence upon the forage they could take in that country. This report shows that this soldier had gone from his camp as many other soldiers had done with the leave, knowledge, and consent of the officer in command; that while out on this foraging expedition, perhaps to get some necessaries for himself and comrades, and perhaps for the very officer who had loaned him his pistol to forage in the enemy's country, he lost his life. Now, sir, I think in view of the fact that this widowed mother had given her son to the service of the country, and that he lost his life while in the service, the mere fact that he had gone from his camp only a short distance, without a written order permitting him so to go, ought not to deprive that dependent mother of the support which she lost by his death. Sir, we have this very evening laid aside for favorable report to the House a bill granting a pension to a man who never was in the military service of the United States at all. It seems to me that the case of this soldier appeals more strongly to the equity and justice of this Government than the case to which I have referred. In that case the action of the House is a mere gratuity; in the case of an enlisted soldier, of one who had entered the military service, and was killed or disabled, the granting of a pension rests upon an implied if not an expressed agreement to care for the widows and the orphans of those who lost their lives.

For this reason I move you that the bill be reported to the House with a favorable recommendation.

Mr. BROWNE. Mr. Chairman, this case is briefly this: the claimant is the dependent mother of a soldier who was killed when foraging upon the country not in the line of his military duty. It is clear that he might have been foraging and also in the line of duty, as foraging parties were often regularly detailed and sent into the country for the purpose of securing supplies. He was not thus detailed. He was not absent in pursuance of an order of a superior officer. It is said in the report that he was absent by the implied consent of his captain, who had loaned him, at the time he developed his purpose to go out foraging, his pistol. That may be an implied permission to go, but it is not an order to go; it is not a detail to go.

Mr. McMILLIN. Nor a legal permission.

Mr. BROWNE. It is not a permission to go in military contemplation. The Pension Bureau——

Mr. ROBINSON, of Massachusetts. I would like to ask the gentleman from Indiana a question in this connection. Suppose it were actually the fact that he had permission, not that the permission was only implied; let us understand how the law would be as applied by the Pension Office. Did he have permission to go on this expedition, and if he had permission, would he, under the practice of the office, be entitled to a pension?

Mr. BROWNE. I will answer the question. The mere fact that the officer allowed him to go, being informed of his purpose to go, or permitted him to go, would not have put him in the line of duty to give him a pension.

Mr. DAWES. Would he not have been absent with leave?

Mr. BROWNE. There is a very great difference between absence from command with leave, and absence from command for the purpose of engaging in a willful disobedience of existing military orders; a great, a grave difference. The captain, his commanding officer, could not authorize him to go in violation of a military rule——

Mr. DAWES. In Sherman's army that marched down to the sea?

Mr. BROWNE. I answer the question that in the opinion of a majority of the Committee on Invalid Pensions no worse precedent could be established than to offer a premium to that great source of demoralization—irregular, illegal foraging. My friend, the gentleman from Ohio, knows, as all know who were in the military service, that there is nothing which so demoralizes the Army as this irregular and illegal foraging. I am not here to say that foraging is not only permissible, but right. It ought to be done extensively in the enemy's country, but it ought to be done under rules and regulations.

Mr. HORR. It was generally neglected.

Mr. BROWNE. No, sir; it was not generally neglected. In this case it was nothing more than this, that the soldier and those with him were absent, with knowledge, it is true, according to the testimony, of the captain of the company. But they were absent in indiscriminate foraging in the country, and invited their own fate.

Mr. STEELE. I would ask my colleague if this man was not absent with leave for the express purpose of foraging?

Mr. BROWNE. No, sir. The very best that can be said in the case—and it is said very strongly in the report—is that he went to the tent where his captain was and announced his purpose to go on a foraging expedition, and he and his comrades went. It is not pretended they were detailed. It is not pretended there was any necessity for the expedition.

Mr. STEELE. Was not that a usual way of getting permission?

Mr. BROWNE. I do not know how it was in that portion of the Army in which my friend served so long and so well. I know in the branch of the service to which I belonged there was the strictest possible rule on that subject. No soldier was to go foraging unless he was regularly detailed and put under the command either of a commissioned or a non-commissioned officer. And to say in reference to soldiers who while in camp left their command and went out into the country to forage—whether from friend or enemy makes but little difference—to say under such circumstances when they dared their fate, as all of them knew they were doing when they went to a distance from their camp, and were killed in that way—to say that those who were dependent on them for support are to be pensioned is simply to invite willful disobedience of military authority, and that kind of disobedience I undertake to say that utterly destroys the discipline of an army; and when there is no discipline there is in fact no army.

Mr. DAWES. I am not aware of any armies to be demoralized by this precedent if it should be established, or of any danger to military discipline threatening or imminent at this time.

This soldier, as the honorable chairman of the committee has said, was out with the clearly implied permission of his officers, where it was the universal custom for the soldiers of the Army to go out upon such expeditions. And the honorable gentleman beside me, [Mr. HEPBURN,] who was himself at Tullahoma, Tennessee, informs me that those details were seldom made. And as the honorable gentleman on my left [Mr. MOREY] has said, at that time the army was in a starving condition. If there was any want of discipline who was to blame? The officers commanding that army, and the captain and lieutenants of the company to which this party that went out belonged. This soldier went out and was killed by the enemies of his country, by the greys. They were in the immediate vicinity of his camp, and he may have had a more formal order to go out than appears here in the record. I should think it probable he had from the information that has come to me.

Now, I think, sir, that this poor widow of that heroic soldier who lost his life at the hands of the enemy of his country ought to have this little pension which she has lost from the time of his death until now. I think the Congress of the United States can do that for her and do no more than justice, and not injure the discipline of any army we have now or that future generations may have.

Mr. PEELLE. So great is my confidence in the Committee on Invalid Pensions that I would be willing to vote for the allowance of a claim they might recommend. I believe in this case that this pension ought to be allowed. We cannot ignore the facts that occurred while we were in the Army. I very well remember that at one time when I was in the Army if we had not violated general military orders and gone on a foraging expedition I would most likely have starved to death. That was after the battle of Pea Ridge, and it was when we picked up corn out of the horse-rack. No general permission was ever given that I know of by a commander of an army for general foraging. It was always in violation of general military orders. Nevertheless it was done.

If this man was absent without leave I apprehend if he were to apply to Congress for relief, for the correction of his record, we would perhaps vote to direct the Secretary of War to grant him that relief. And now, Mr. Chairman, whether he was absent by the permission of his officer, implied or not, we must remember that soldiers very seldom went foraging unless they were in search of something to eat; and especially would that be true, as suggested by the gentleman

from Ohio, [Mr. DAWES,] if he were in the midst of traitors. This soldier went on a foraging expedition, and so far as this case is concerned, say he was absent without leave and in the pursuit of something to eat, and he was murdered or killed. It seems to me that the mother dependent upon him for support should have the benefit of the pension which would have been accorded to him had he been in the direct line of duty.

I am inclined to believe the Committee on Invalid Pensions have only made the report they have for the reason of the dangerous precedent which they think it may establish; but I do not believe there are enough of this class of cases to make the precedent dangerous, and for that reason I sincerely hope that the motion of the gentleman from Ohio [Mr. MOREY] will prevail and that this bill will be reported to the House favorably.

Mr. UPDEGRAFF, of Ohio. I desire to say only a word or two in reference to this matter. It seems to me that this report should have accompanied a recommendation for a pension, because if it shows anything it proves conclusively that this soldier was absent, not by implied but by express permission. He came to the tent of his officer with one of his comrades, and said he was going out on a foraging expedition. Did the officer forbid him? Instead of that, he gave him permission. How? By taking his revolver and loaning it to him, and allowing them to take two of his horses.

On general principles, Mr. Chairman, I am opposed to drawing any fine distinctions of this kind against the needy mother of a dead soldier. Oh, it is all very well for us who have plenty here now and comfort and ease and all we want to eat to talk about the violation of military orders by foragers!

Why, Mr. Chairman, it was continually the only way that the soldier had to obtain the means to live. And when he came back to camp, this officer expected to have part of the forage that he procured. It seems to me it is an outrage to draw the line where it is proposed to be drawn here, when the soldier went with the permission of his officer, and carrying the revolver of his officer. If he could have permission, that was a permission.

As almost every man knows who was in the service, it was not at all likely that a soldier who did not need something to eat would go foraging in September, 1863, in Tennessee, in the condition that State was in at that time, filled with bushwhackers ready to take the life of every Union soldier, to shoot him down in his tracks. No, sir, it was a dangerous business. And the kind of men who were ready to risk their lives in that way, to invite danger, as the chairman of the committee has said, the kind of men who were ready to risk their lives in foraging were men who generally were ready the next day to stand in the front ranks when the fighting came. And the men who were not ready to forage were the men who the next day were sick or skulking in the rear.

I had not intended to say a word about this, but I would be ashamed to sit here and hear the character of a private soldier stigmatized when he had the permission of his officer to go out on this expedition, when he took the revolver of the officer by that officer's consent, and went out to find something for the support of himself and his comrades.

Sir, I would grant this man a pension just as soon as I would had he been shot down in the front rank of a charge. [Applause.]

Mr. MATSON. I am very sure, Mr. Chairman, that nobody intends to stigmatize the courage of a dead soldier. This is an adverse report. In the committee I believed, and I believe now, that this case ought to have been favorably reported. Every single fact necessary to entitle the mother of this soldier to a pension, except the one fact that the soldier was not exactly in the line of duty at the time he was killed, has been fully proven even according to the language of this adverse report. And the proof upon that point is so nearly within the purview of the law, is fortified by the additional fact that at the time this soldier started out to do this foraging he started out to do some fighting if necessary, because he took his arms with him and went out ready not to kill Union men but to kill the enemy if necessary.

So I say that in view of all these facts which have been admitted and the further fact of his pursuing this foraging in a fighting line, and the further fact that no one can be blamed about this matter except this officer, I think this committee ought to and will direct this bill to be reported favorably to the House.

Mr. MCMILLIN. The gentleman from Indiana, [Mr. MATSON,] has said that every fact in this case except one has been established. That one fact is the very fact of all others that ought to be established before a pension is granted. There is not one word of proof in this record, and, belonging as I do to the Committee on Invalid Pensions, I investigated this matter before it came here. I challenge the production of one single line of evidence to show that this man was in the line of his duty. It does not exist; it cannot be found in this Capitol to-night. I know it is very convenient to go off into rhapsodies on a question like this, but this, like all other questions, has its two sides. My friend from Ohio [Mr. UPDEGRAFF] in his enthusiasm said that he would vote for a pension in the case of this soldier as quickly as if he had been shot down in the line of battle. Now it is a question of taste whether he will vote as readily for a man killed out of the line of duty as for one killed in the line of duty.

That this man was a soldier is not denied; that he was killed is not denied; that the party seeking the pension bears the relationship alleged is not denied. But that can be said with equal truth of 25,000 persons whose cases have been rejected in the Pension Office, and of thousands whose cases have been rejected by Congress during the many years that Congress has been called upon to grant pensions.

Mr. UPDEGRAFF, of Ohio. What can be said of them? The same as this?

Mr. MCMILLIN. That they were killed, that the parties applying were related to them; all the facts that can be given here.

Now, this idea of giving this man direction to go on a foraging expedition is entirely a matter of imagination, and the record does not bear it out. The most the record shows in this case is that the officer knowing of it winked at his going. I speak subject to correction any minute, subject to interruption any minute, subject to the production of the evidence any minute. Now, to my mind there is a vast difference between a man dying in the line of duty and a man dying out of the line of duty. It is the difference which separates the true soldier from the one who failed to discharge his whole duty.

Mr. STEELE. Will the gentleman allow me to ask him a question?

Mr. MCMILLIN. Certainly.

Mr. STEELE. In a military point of view, was this soldier who went on that foraging expedition with the knowledge of his officer to blame, or was that officer to blame?

Mr. MCMILLIN. They may have both been to blame. The soldier is to blame who leaves his command without the express permission of his commanding officer; not blamable in this case in all probability in a sense that would attach criminality to the act. I do not mean to say that. But you grant your pensions according to special rules. Now, we will suppose the case of a soldier who is furloughed to go home, and while home becomes sick and dies—not in the line of his duty. Do you grant a pension in such a case? Suppose a soldier gets into a personal difficulty and somebody shoots him. In that case do you grant a pension? No, sir.

Mr. UPDEGRAFF, of Ohio. Would you refuse to grant a pension if the soldier while home on furlough was shot because he was a Union soldier?

Mr. MCMILLIN. The law declines to give a pension if the soldier at the time he dies or incurs the injury is out of the line of his duty, I do not care what he is engaged in. If a soldier is sent home by the direction of his officers upon furlough and while there is attacked, even then it is a stretch of authority to grant a pension. A pension has never been granted in this Congress in such a case.

Mr. BROWNE. If the gentleman from Tennessee [Mr. MCMILLIN] will permit me I will answer the question of the gentleman from Ohio, [Mr. UPDEGRAFF.]

Mr. MCMILLIN. With pleasure.

Mr. BROWNE. By the general law which has been on your statute book for twenty years and more a soldier who, while absent from his command on regular furlough, receives an injury is not entitled to a pension except in case of absence on sick leave.

Mr. MCMILLIN. Precisely. When a soldier while in health, as this soldier is shown is have been, is furloughed and dies while on furlough a pension cannot be granted. By granting a pension in such a case you do injustice to a vast number. There may be 10,000 who died under such circumstances whose widows will not get any pension.

As I have stated, in this case the absence of the soldier was simply winked at. Besides, the record does not show that at the time in question there was any destitution of food in the command to which the soldier belonged.

I have no special feeling in this case. I know there can be no just complaint against the committee in this case for failure to make liberal recommendations in behalf of soldiers and their survivors. No complaint can be made against the Government for not making the general law as liberal as it should be. In view of all this, I insist that there ought to be a distinction between a soldier who dies in the line of duty and one who dies out of it.

Mr. DAWES. I wish to occupy only a moment to draw a distinction between this case and such a case as that suggested by the honorable gentleman who has just spoken. Ordinarily when a man gets a furlough he unbuckles his armor and goes to the rear. This man, with the consent of his officers, buckled on his armor and went to the front, in the face of the enemy, to get something to eat, so that he and his comrades might not starve to death. That is probably the whole of this case. As to the justice due from the Government to a soldier there is a broad distinction between the case where a man goes to the rear on furlough, out of the line of duty and out of all danger, and the case of a soldier who goes to the front under such circumstances as those presented here. This man, with the consent of his officers, went to the front bearing his arms, for the purpose of procuring for himself and his comrades something to eat.

Mr. BROWNE. I do not care a fig, Mr. Chairman, so far as I am personally concerned, what the result in this case may be. I have never yet consciously voted a pension for a disability incurred out of the service, especially for a disability incurred in violation of military rule. I do not intend to vote in the future for any such pension. If other gentlemen see the matter differently, I am entirely willing they shall so vote.

But I do not intend it shall go on the record in this case that this soldier was starving and for that reason went upon this expedition. There is not a word or a line in this whole case tending to show any such condition of things. Nor am I willing to believe that those who commanded the armies of the United States were so heartless that in a country where supplies could be had they refused the regular details by which soldiers are sent into the country on foraging expeditions.

I will vote pensions as liberally as any of the gentlemen who have seen cause to censure me for the position I occupy in this case, to soldiers or to the survivors or dependents of soldiers who have been wounded or disabled in the line of duty. But I will not in my representative capacity vote money out of the Treasury of the United States—money contributed in part perhaps by soldiers who were faithful and who have had no share in the distributions of the nation's bounty. I am not willing to vote their money away except in a case which is shown to be deserving under some rule of law or equity. No such case is presented here.

As to foraging, soldiers who sit around me know something about it. It was very extensively practiced in every command where I had the honor to serve. But I repeat what I have so frequently said, that irregular foraging was in violation of military rule and military discipline. If permitted, it would utterly destroy the discipline of the Army, as every man who commanded a company or a regiment knows. It is the right of the commanding officer to know when his men are absent and where they are. It is the duty of a soldier who leaves his command for any purpose to obtain regular permission to do so. Where the soldier leaves his command for the purpose of foraging it is important he should do so under the regular authority of his officer, so that the foraging may be properly done, that it may not be done merely for the sake of foraging.

If foraging was necessary it ought to be done. If there was anything in the neighborhood the Army wanted it ought to have been taken. Now I am not willing to go into a panegyric of those soldiers, many of them the best soldiers in many respects, with fighting qualities equal to any. I am not willing to go into a panegyric of those men who went off on a foraging expedition to gratify their taste for foraging.

A MEMBER. To gratify their taste for something to eat.

Mr. BROWNE. More frequently to gratify their taste for something to drink; but I do not care to pursue this question further.

Mr. UPDEGRAFF, of Ohio. Mr. Chairman, there is only one thing I wish to be distinctly understood, and that is that I do not cast any reflection upon the action of the Committee on Invalid Pensions, because I think no Committee on Invalid Pensions ever has been more faithful to the soldiers that this one of which the gentleman from Indiana is chairman. It seems to me, however, a little hard he should come down so roughly upon this soldier, who had the permission, and indeed I may say the command, of his superior officer to go upon this foraging expedition.

Mr. MCMILLIN. Never existed, sir.

Mr. UPDEGRAFF, of Ohio. What did not exist?

Mr. MCMILLIN. The command.

Mr. UPDEGRAFF, of Ohio. I am going to show you what I mean by command. I say that when the officer took off his revolver and gave it to this soldier, knowing he was going on a foraging expedition, it amounted to a command, and was nothing short of it. If my boy comes and tells me he is going on an expedition under my command, and I gratify him with the means to go, and supply him with the arms necessary for his defense, he then has my permission and my authority to go.

My friend from Indiana, the chairman of the committee, says there is not a word or line to prove there was any destitution. Now, sir, if there be any force in the logic of the report, then when he had the authority of his officer to go, do you undertake to say that officer would allow him to go upon this expedition when there was no necessity for it?

Mr. BROWNE. No; but I undertake to say when the American Congress proposes to take money out of the Treasury on a particular state of facts there ought to be some evidence those facts exist. That is what I say, that there ought to be some affirmative testimony there was necessity for it.

Mr. UPDEGRAFF, of Ohio. The affirmative testimony is in the fact that the officer, knowing the condition of things at that time, knowing the danger that surrounded his men, knowing the woods was infested with guerrillas, gave this soldier his revolver, and that these men also took Government horses with the consent of the officers. This is affirmative evidence surely that they went, not only with the full knowledge but with the full consent of their superior officers. If that does not furnish affirmative evidence, then this report does not mean anything.

It is easy for us to say foraging demoralizes, and so on, but, Mr. Chairman, foraging was countermanded sometimes, and sometimes it was allowed.

My friend from Tennessee contends this case was winked at. It was a pretty big wink when they gave horses and revolvers to these men to go out for the purpose of foraging for their company.

Mr. MCMILLIN. But they were all subject to their superior officers, and knew an inferior could not direct.

Mr. UPDEGRAFF, of Ohio. This soldier was under the authority of his commanding officer, and he went on this foraging expedition with his permission and by the aid of that officer, and hence I claim he went with his full authority.

Mr. HEPBURN. There is one matter which seems to be overlooked by gentlemen, and that is, we are authorized to recognize such things as are known as presumptions. When certain facts are established others should be presumed to exist. Now, it is in proof that by the knowledge and consent of this officer this man went on this expedition; that he was provided with the means for his defense, and also with Government horses to make the expedition effective. Can we not presume from those established facts there was an order for his going upon this expedition and that there was a necessity for it. If you do not agree there was this order and this necessity, then you convict this officer of having committed a crime. I do not think you have a right to presume he has been guilty of any such offense.

Mr. BROWNE. If he were regularly detailed on an order from an officer who had a right to make the detail he would have been in the line of his duty and clearly entitled to a pension. How does it happen that instead of that the Pension Office refused to grant him a pension?

Mr. HEPBURN. I cannot answer that.

Mr. DAWES. The Pension Office said there was no written evidence.

Mr. HEPBURN. As a cavalry officer, the gentleman from Indiana knows not once in a score of times was a detail made, but that cavalrymen were always anxious to engage in this kind of service, and the question was not who should be compelled to go, but who would be permitted to go. Details were not necessary, and were not made.

I think that his experience will bear me out in this statement; and that while there might have been some irregularity, and perhaps with few exceptions in all commands there was, still there was an order from headquarters that foraging should not be permitted. But it was an order that was constantly violated—a violation that all grades of officers winked at and permitted. This had the effect of inducing many men, doubtless, to believe that they were engaged in proper and legitimate service when they were foraging, as I have no doubt in many cases they really were. I think I have answered the demand of the gentleman for proof that these men were engaged in obedience to an order, if we have a right to assume under these circumstances, as I think we have, the existence of that order from the knowledge of the officer who had given them aid in carrying it into execution.

Mr. PARKER. Mr. Chairman, being a member of the Committee on Invalid Pensions who voted for this adverse report, I shall not at all shrink from the obligations placed upon me by that action. I believe the adverse report was eminently proper. I believe it is the duty of the committee to sustain it, and I believe that in framing it they performed nothing more than their duty. If this were merely a question of sympathy, a case where our sympathies were enlisted in behalf of the soldier who lost his life, or of the dependent mother whose support was thereby taken from her, I would vote and vote cheerfully to give her all that was necessary to support her as long as she lived. But here is a question of fact, and a question of law, and not a question of sympathy. The report as submitted states the facts as they were found by the Committee on Invalid Pensions precisely as they would have been found by a court or a referee. Upon the facts thereby obtained the conclusion of the committee was based; and the report is based upon the conclusion that the man so placed shall not be pensioned.

Now, what is the case presented here? Here is a man, being under the control of a superior officer in the confederate country, surrounded by enemies, who went out on a foraging expedition. Did he go by order? The gentleman on my right assumes that he did. In that assumption he admits that he needs the order to sustain this demand for a pension. But the finding of facts in the case on which this report is based is that he had no order. He had an implied consent. Circumstantial proof is given that he had the implied consent of the commanding officer. In what way? Simply by reason of being permitted to use the officer's pistol. Is it possible to believe that an officer, responsible for the lives of the men under him, in an enemy's country, surrounded by foes, would send out two or three men selected at random on a foraging expedition? Does it seem to be a reasonable proposition? It does not, to my mind, present any such case. If they needed supplies, if they were starving as alleged, that condition of things would apply also to the entire command, and not merely to these two or three men who went out. If it was necessary to provide supplies for the command, a detail would most probably have been made for that purpose, and men sent out to supply not only themselves but to bring back supplies for the others; and the question is even then whether they would not have been acting outside of the line of duty.

But let us go a step further. We find a good many cases where a man is acting in the line of duty though not an enlisted man. Now if such a person, acting as a soldier, should go out foraging on his own account or should go out foraging for a soldier in the line of duty, and meet the fate that this man met, would it be claimed that he would be entitled to a pension? You would have to go a little further and say that every man foraging for a soldier ought to have a pension. Where would you stop? There is no stopping-place.

There is no place to draw the line, in the judgment of the Committee on Invalid Pensions, except where the committee has drawn it; and where a man is outside the line of duty, where he is abroad upon an adventure and perhaps simply from the love of adventure, and meets with disaster, the claim for pension has no foundation. I think the report of the committee should be adopted.

The CHAIRMAN. The question is on the motion of the gentleman from Ohio, that the bill be laid aside and reported to the House with a favorable recommendation.

The committee divided; and there were—ayes 16, noes 11.

So the motion was agreed to.

Mr. BROWNE. Now, Mr. Chairman, I want to be candid about this matter. I am willing that this case shall be reported to the House favorably upon this vote, but I want to say that this House will not pass the bill to-night. I want to know the judgment of the House when there is a quorum present. I am entirely willing, as I have said, that it shall go into the House with a favorable report; but it cannot pass to-night without a quorum.

Mr. THOMPSON, of Iowa. I wish to ask the chairman of the Committee on Invalid Pensions whether he has not already stated to the committee in his remarks that he did not care what action was taken in this matter; that he would simply place on record the facts in the case, and was indifferent as to how the House should decide in reference to it? I would like to ask him, that being the fact, whether this is now mere pride of opinion which induces him to interpose this objection?

Mr. BROWNE. If the gentleman from Iowa thinks the chairman of the Committee on Invalid Pensions has nothing to gratify but his own personal desires he is mistaken, very sadly mistaken.

Mr. THOMPSON, of Iowa. I said nothing of the kind.

Mr. BROWNE. I have no feeling in this case personally at all. I do not care whether the bill be voted up or voted down. But it is setting a wrong precedent, in my judgment, when we give a pension to the dependent mother of a soldier who did not meet his death in the line of duty.

The CHAIRMAN. There is no question before the committee.

Mr. CONVERSE. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BURROWS, of Michigan, having taken the chair as Speaker *pro tempore*, Mr. BRIGGS reported that the Committee of the Whole House, having had under consideration the Private Calendar, had directed him to report sundry bills with various recommendations.

BILLS PASSED.

Bills of the following titles reported from the Committee of the Whole House without amendment were severally ordered to be engrossed; and, being engrossed, were accordingly read the third time, and passed:

A bill (H. R. No. 4101) for the relief of Elisabeth Bray;

A bill (H. R. No. 5684) granting a pension to Newton Boutwell;

A bill (H. R. No. 1554) granting a pension to Eliza Hudson;

A bill (H. R. No. 2910) granting a pension to Kate Wilharlitz;

A bill (H. R. No. 2912) granting relief to the heirs of Kunigunda A. Miller, deceased;

A bill (H. R. No. 2349) granting an increase of pension to George J. Webb;

A bill (H. R. No. 3048) granting a pension to Arthur W. Irwing;

A bill (H. R. No. 435) granting a pension to Solomon J. Grisson;

A bill (H. R. No. 369) granting a pension to Jacob R. McFarren;

A bill (H. R. No. 1341) granting a pension to James B. White; and

A bill (H. R. No. 1373) granting a pension to James K. Sturtevant.

Bills of the following titles were reported from the Committee of the Whole House with amendments; the amendments were agreed to, and the bills as amended were ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed:

A bill (H. R. No. 4444) granting pensions to Wilson W. Brown and others;

A bill (H. R. No. 1462) granting a pension to Lewis Blundin;

A bill (H. R. No. 4877) for the relief of Emma A. Porch;

A bill (H. R. No. 5018) granting a pension to Elizabeth F. Rice;

A bill (H. R. No. 1873) for the relief of Patrick Sullivan;

A bill (H. R. No. 1243) granting a pension to Michael Marion;

A bill (H. R. No. 3000) granting a pension to Nathaniel J. Coffin; and

A bill (H. R. No. 1188) granting a pension to Thomas Allcock.

The following Senate bill was reported from the Committee of the Whole House without amendment, ordered to a third reading, read the third time, and passed:

A bill (S. No. 240) granting an increase of pension to Henry Strawbridge.

ELISA A. MURRAY.

The bill (H. R. No. 1336) granting a pension to Elisa A. Murray was reported to the House with the recommendation that it do pass.

Mr. CONVERSE. That, I think, is the bill on which the gentleman from Indiana [Mr. BROWNE] proposed to have a vote in the House.

Mr. BROWNE. I ask for a vote on that bill.

The question was on ordering the bill to be engrossed and read a third time.

The question being taken, the Speaker *pro tempore* stated that in the judgment of the Chair the "noes" had it.

Mr. MOREY. I call for a division.

The House divided; and there were—ayes 17, noes 11.

Mr. BROWNE. I regret very much to make the point that a quorum has not voted.

The SPEAKER *pro tempore*. The gentleman from Indiana makes the point that a quorum has not voted. The Chair will order tellers.

Mr. BROWNE. Oh, no; let it go over.

RECONSIDERATION.

Mr. ALDRICH. I move that the House do now adjourn.

Mr. BROWNE. Before the motion to adjourn is put I desire to move to reconsider the several votes by which the bills already passed have been passed; and I also move that the motion to reconsider be laid on the table.

The latter was agreed to.

ORDER OF BUSINESS.

Mr. JOYCE. I hope the gentleman from Illinois [Mr. ALDRICH] will withdraw the motion to adjourn. The House will recollect that there is attached to the order for the evening session an order to consider bills upon the Calendar donating condemned cannon. I do not know whether that is a continuing order or not. But at any rate it would take but a few minutes to take up these bills and dispose of them. We may as well do it this evening as on any other evening. I hope, therefore, the gentleman from Illinois will withdraw his motion, and I will make a motion that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of taking up these bills.

Mr. ALDRICH. I do not think it best to withdraw the motion. I think at the present stage of our proceedings we cannot do any other business, and that we should adjourn.

The question being taken on the motion to adjourn, it was not agreed to.

Mr. JOYCE. I now move——

Mr. MCMILLIN. I hope my friend from Vermont will not insist on his motion. It is shown there is no quorum here. About twenty or thirty members are all we have present.

Mr. RANDALL. There is not one of the two hundred and ninety-three members of the House who, if here, would vote against those bills.

Mr. MCMILLIN. I know a number of gentlemen have left believing nothing would be done beyond disposing of the pension bills. Furthermore, it is now ten o'clock and I think it is time to adjourn.

Mr. MOREY. It will take but a few minutes to transact this business.

Mr. ALDRICH. Can the question before the House upon which the point of no quorum was raised be laid aside so that we can now go on with other business?

The SPEAKER *pro tempore*. The gentleman from Indiana [Mr. BROWNE] simply raised the point that no quorum had voted, but tellers were not ordered; and while the appointment of tellers was pending the gentleman from Illinois moved that the House adjourn.

Mr. PEELLE. I ask the gentleman from Vermont if the consideration of the bills donating condemned cannon was not part of the special order?

Mr. JOYCE. It was. I renew my motion that the House resolve itself into Committee of the Whole House on the state of the Union, for the purpose of considering those bills.

Mr. ALDRICH. I did not understand the Chair to say that the business pending when the absence of a quorum was developed has been laid aside.

Mr. RANDALL. Let that go over by unanimous consent, holding its place as unfinished business.

Mr. ALDRICH. If that goes over by unanimous consent I am willing that the proposition of the gentleman from Vermont should be acceded to.

The SPEAKER *pro tempore*. Is there objection to this bill going over until to-morrow?

Mr. MOREY. To come up as unfinished business.

The SPEAKER *pro tempore*. The Chair hears no objection.

The question was then taken upon the motion of Mr. JOYCE, that the House resolve itself into Committee of the Whole House on the state of the Union, and it was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. BRIGGS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the purpose of considering, under the order of the House, bills and joint resolutions granting condemned cannon, &c.

SOLDIERS' MONUMENT ASSOCIATION, BIRMINGHAM, CONNECTICUT.

The first bill granting condemned cannon was the bill (H. R. No. 2195) donating condemned bronze cannon to the Soldiers' Monument Association of Birmingham, Connecticut.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported favorably to the House.

Mr. McMILLIN. I wish to hear the bill read. [Laughter.] I notice that my request that the bill be read causes some merriment. I make the request for this reason: I remember that during the last Congress a bill came up donating cannon, some sixty bronze cannon, I believe. It came very near going through, although had it passed it would have taken sixty bronze cannon off their carriages.

Mr. JOYCE. It is very proper that these bills should be read.

The bill was read as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, four condemned bronze cannon to the order of the president of the Soldiers' Monument Association of Birmingham, Connecticut, to be used in the casting of a statue of a soldier to surmount a monument in process of erection by said association.

There being no objection, the bill was laid aside to be reported favorably to the House.

The next business under the order was the bill (H. R. No. 2202) donating condemned cannon and cannon balls to the Soldiers' Monument Association of Birmingham, Connecticut.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, four condemned cannon and thirty-six cannon-balls to the order of the Soldiers' Monument Association of Birmingham, Connecticut, to be used in connection with a soldiers' monument now in process of erection by said association.

Mr. CONVERSE. Was not the bill which was passed before this a bill for the same association? How does it happen that two bills are on the Calendar granting four condemned cannon to the same association?

Mr. PEELLE. I would suggest that this second bill be passed over informally.

Mr. McMILLIN. It seems to me it should be reported to the House to be laid upon the table, as there seems to be two bills for the same purpose.

Mr. JOYCE. They are two separate bills; one is to grant bronze cannon for a statue and the other is to grant iron cannon.

Mr. PEELLE. I suggest that the bill be passed over informally, as they seem to be for the same association, and the author of the bill is not here.

The CHAIRMAN. If there be no objection, the bill last read will be passed over informally.

There was no objection, and it was so ordered.

GRAND ARMY POST NO. 94, PHILADELPHIA.

The next business under the special order of the House was the bill (H. R. No. 3082) granting condemned cannon to the Anna M. Ross Post, No. 94, of the Grand Army of the Republic, of Philadelphia.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to donate two condemned brass cannon to the Anna M. Ross Post, No. 94, of the Grand Army of the Republic, of Philadelphia.

There being no objection, the bill was laid aside to be reported favorably to the House.

WATERLOO SOLDIERS' CEMETERY, IOWA.

The next business under the special order was the joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls, for decoration of soldiers' cemetery.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he is hereby, authorized and directed to deliver to the authorities of the city of Waterloo, Black Hawk County, Iowa, three condemned cannon and four cannon-balls of a large caliber, for use in decorating the lot in Elmwood Cemetery, in that city, that has been set apart for the burial of ex-soldiers.

Mr. McMILLIN. I desire to ask the gentleman from Iowa, [Mr. DEERING,] who introduced this bill, whether there is any evidence that there are condemned cannon now in possession of the Government?

Mr. ALDRICH. That is the kind they are making now. [Laughter.]

Mr. JOYCE. I called at the War Department this afternoon to find out all about that.

Mr. McMILLIN. How many are there?

Mr. JOYCE. I can give the gentleman the number in a moment.

Mr. STEELE. There are 135 iron cannon.

Mr. McMILLIN. The reason I ask is that I know during the last Congress the report was made to us that there were no more condemned cannon on hand.

Mr. JOYCE. There are 927 bronze cannon, 752 cast-iron guns, 22 cast-iron guns, 42 wrought-iron guns, 8 wrought-iron guns, and 48 steel guns.

Mr. McMILLIN. All condemned?

Mr. JOYCE. Not all condemned now, but they will be in due time.

Mr. McMILLIN. I desire to have an amendment to these bills providing that these cannon shall be from the number of condemned cannon now on hand. I think that ought to be done.

Mr. DEERING. Now condemned or to be condemned?

Mr. McMILLIN. I want my amendment to apply to all these bills, that these donations are to be made out of condemned cannon now on hand. I am informed by my friend on my right here, and my memory so serves me, that last year there were granted more condemned cannon than there were such cannon in possession of the Government. My friend from Vermont [Mr. JOYCE] says that they are not all condemned yet, and my friend from Illinois [Mr. ALDRICH] suggests that they are making no cannon now but condemned cannon.

Mr. JOYCE. They are not all condemned now, but many of them are, and all of them will be, for they are absolutely of no use in case of war. They are good for nothing but for old bronze and old iron.

Mr. ALDRICH. I want to offer an amendment that if there are not enough condemned cannon now on hand to fill these bills the officers of the Government shall be instructed to condemn enough for the purpose. [Laughter.]

The CHAIRMAN. The Chair understands that the gentleman from Tennessee [Mr. McMILLIN] proposes to move an amendment to the pending bill. The Chair will suggest to him to send his amendment in writing to the Clerk's desk.

Mr. McMILLIN. There seem to be some few condemned cannon now on hand, and I will not offer my amendment to this bill but to the next one.

Mr. PEELLE. If the amendment suggested by the gentleman from Tennessee [Mr. McMILLIN] be made to apply only to condemned cannon now on hand, and five days or only one day after these bills shall have been passed there should be more cannon condemned, his amendment would prevent their being donated.

Mr. McMILLIN. I certainly would not pass bills donating condemned cannon if there are none on hand now.

Mr. PEELLE. If they are not condemned now they may be condemned within a few days after these bills are passed.

Mr. McMILLIN. Then the amendment suggested by my friend from Illinois [Mr. ALDRICH] ought to be made.

Mr. REED. All the early bills on the Calendar would get the cannon and those that come afterward would get none, under the amendment of the gentleman from Tennessee. Now, my bill is one of the earliest, and yet I object to the amendment of the gentleman out of charity to the others.

Mr. McMILLIN. I know my friend from Maine [Mr. REED] is a humanitarian; charity beams from every feature of his face. I want to give the gentleman due credit for all the charity he claims.

The CHAIRMAN. If there is no objection, the bill will be laid aside to be favorably reported to the House.

The question was taken, and it was so ordered.

CONDEMNED CANNON FOR TOPEKA, KANSAS.

The next business was the bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, to the city of Topeka, Kansas, four condemned cannon and twenty cannon-balls, to be placed on a monument to be erected in memory of deceased soldiers in the Topeka cemetery.

Mr. ROBINSON, of Massachusetts. I move to amend by adding "also four condemned cannon to the town of Brimfield, Massachusetts, for monumental purposes."

The amendment was adopted.

Mr. CONVERSE. I move to amend by adding "four condemned cannon for the Ferncliff Cemetery, Springfield, Ohio.

The amendment was adopted.

Mr. ROBINSON, of Ohio. I move to amend by adding "four condemned cannon to the Soldiers and Sailors' Association of Delaware, Ohio, for a soldiers' monument."

The amendment was adopted.

Mr. WILLIS. I desire to offer a small amendment, and I will make the number of cannon "three" instead of four. I move to amend by adding "also to the National Soldiers' cemetery at Louisville, Kentucky, three condemned cannon, for the same purpose." I will state that I introduced in the last Congress a bill making a donation of this kind, which received favorable action. But it was announced that there were no condemned cannon then or thereafter to be had, so far as the authorities knew. I therefore withdrew the bill. Now, as there seem to be condemned cannon on hand, I offer this amendment in good faith.

The amendment was adopted.

Mr. MOREY. I move to amend by adding "also four condemned cannon and four cannon-balls to Wetzel Compton Post, Grand Army of the Republic, of Hamilton, Ohio, for the purpose of decorating a soldiers' lot."

The amendment was adopted.

Mr. BROWNE. Now, in order that each of the two hundred and ninety-three members of the House and the eight or nine Delegates may get a donation of four condemned cannon, I move that the committee rise.

Mr. WILLIS. I have offered my amendment in perfect good faith; but if its tendency is to break down the bills of other gentlemen I withdraw it.

Mr. MOREY. I think it is fair that all these amendments should be withdrawn. If we had proceeded regularly we would by this

time have acted favorably upon a number of these bills, and the business of the committee would have been expedited. It occurs to me that to go on in this way defeats the very object for which we resolved ourselves into Committee of the Whole. For my part, I am willing to withdraw my amendment, as I hope other gentlemen will withdraw theirs, and let these bills take their orderly course.

Mr. STEELE. Gentlemen having propositions of this kind should introduce their bills and send them to the Committee on Military Affairs, where there will be no trouble in having them favorably considered.

Mr. BROWNE. I insist on my motion, unless we can arrive at an immediate agreement on this subject.

Mr. ROBINSON, of Massachusetts. I do not see any reason at all why the Committee on Military Affairs should not report a single bill including these different places, so that they may be all treated alike. That we undertook to do in the last Congress. The town named in the amendment I have moved is, as gentlemen know, just as much entitled to a donation of condemned cannon as any other place. There is no reason why one town should have such a donation more than another. We all should stand about alike.

Mr. BROWNE. I can state one reason, if the gentleman will allow me.

Mr. ROBINSON, of Massachusetts. I shall be very glad to hear it.

Mr. BROWNE. It is that other members were vigilant in getting their bills before the Committee on Military Affairs, and obtaining favorable reports. In this respect they stand ahead of the gentleman in equity.

Mr. ROBINSON, of Massachusetts. I was so vigilant that I obtained a favorable report in the last Congress; and my bill got into precisely the same position as this one; when it came up various gentlemen jumped upon it and loaded it with amendments. I do not know whether my friend from Indiana [Mr. BROWNE] helped to do it or not.

Mr. MOREY. As the gentleman "knows how it is himself," he ought not to assist in loading down this bill.

Mr. CONVERSE. I desire to say that in the last Congress a bill reported by the Committee on Military Affairs was passed by this House giving condemned cannon to the Ferncliff Cemetery, but it failed in the Senate. The amendment ought to go upon this bill. We have another cemetery, for which I have not even made a request, where there are at least five hundred soldiers buried. I should be very glad at some time during the session to get a donation of four condemned cannon and the same number of balls for that association. But I insist that this amendment for the Ferncliff Cemetery shall remain in the bill, because a proposition to this effect passed the House in the last Congress and failed in the Senate. The amendment is just as worthy as any of the propositions of this kind that are presented here.

Mr. ROBINSON, of Massachusetts. No proposition of mine shall stand in anybody's way; I do not want to defeat any bill of this kind. Although I do not see why the town I have named in my amendment should not be treated in just the same way as these others. I withdraw the amendment.

Mr. CONVERSE. I hope the gentleman will let his amendment stand. Let the bill pass with the amendments.

Mr. ROBINSON, of Massachusetts. I am willing to leave the amendment in or withdraw it, just as may be deemed best. I do not see why there is not as much merit in my proposition as in any other.

Mr. BROWNE. I concede it has just as much merit as a dozen other propositions which various gentlemen may make. There is in my town of Winchester, Indiana, a soldiers' monument association engaged in good faith in accumulating funds for a soldiers' monument. I had drafted an amendment with a view to offer it, but I saw at once we would defeat the whole object of this legislation donating more condemned cannon than we have, good, bad, and all kinds, and for that reason I thought it was best I should not offer mine. I withdraw my motion that the committee rise.

Mr. ROBINSON, of Massachusetts. I will give mine up also, hoping to get something hereafter.

Mr. CONVERSE. Mine is a meritorious case, and I make an appeal to gentlemen in its favor.

Mr. BROWNE. I cannot discriminate in favor of the gentleman from Ohio.

Mr. CONVERSE. It is not in my district.

Mr. MOORE. I object to its going on unless mine also goes on. Mr. Chairman, there is a soldiers' national cemetery in Memphis with 14,000 soldiers and no monument.

A MEMBER. Introduce your bill.

Mr. MOORE. Nine thousand of them Union soldiers unknown and 5,000 whose names are recorded. There is no monument and we need one. Certainly if condemned cannon are to be donated for soldiers' monuments, the national cemetery at Memphis should be liberally provided.

Mr. MOREY. Introduce your bill.

The CHAIRMAN. Does the gentleman from Ohio withdraw his amendment?

Mr. CONVERSE. I withdraw my amendment.

Mr. MCMILLIN. I move an amendment which I think proper should go on, especially in view of the experience of last session, when sixty bronze cannon came near going, worth over $200,000. I move to add the following:

Provided, There are cannon now on hand which have been condemned with which to meet the demands of this act.

Mr. RANDALL. If there are no condemned cannon they will not get them.

Mr. MCMILLIN. Then my amendment will not hurt anybody.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' MONUMENT, PORTLAND, MAINE.

The next business was the bill (H. R. No. 605) donating cannon and cannon-balls to aid in the construction of a suitable soldiers' monument at Portland, Maine.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized to deliver, if the same can be done without detriment to the Government, to Post Bosworth, Grand Army of the Republic, Portland, in the State of Maine, four condemned cannon and sixteen cannon-balls, to be used in the construction of a suitable monument to be erected by said post in honor of the deceased soldiers of the late war.

Mr. REED. I move that bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to, and it was so ordered.

CONDEMNED CANNON FOR MONUMENTAL PURPOSES.

The next business was the bill (H. R. No. 679) donating condemned cannon, &c., for monumental and other purposes.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed, if the same can be done without prejudice to the public service, to deliver to the parties herein named the following condemned cannon, &c., for monumental and other purposes, namely:

To the Charles Russell Lowell Post, No. 7, of the Grand Army of the Republic, of Boston, Massachusetts, two condemned twelve-pounder guns and gun-carriages, to be used for monumental purposes in the decoration of a free burial ground for ex-soldiers, sailors, and marines who have been honorably discharged from the service of the United States.

To each of the towns of Woburn, Winchester, and Wakefield, in the State of Massachusetts, four condemned cannon, to be used in the erection of a soldiers' monument, or in the decoration of a soldiers' lot in the cemeteries in said towns.

To Post No. 78 of the Grand Army of the Republic, district of Massachusetts, four condemned cannon, to be used for monumental purposes in the cemetery at South Abington, Massachusetts.

To the McPherson Post, No. 73, of the Grand Army of the Republic, district of Massachusetts, four condemned cannon, to be used for monumental purposes in the cemetery at Abington, in said State.

To the selectmen of the town of Paxton, in the county of Worcester, State of Massachusetts, four condemned cannon, to be used in ornamenting the lot upon which the soldiers' monument is erected in said town of Paxton.

To the selectmen of the town of Brimfield, Massachusetts, four condemned cannon, to be used in the completion of the soldiers' monument in said town.

To the William H. Bartlett Post, No. 3, of the Grand Army of the Republic, of Taunton, Massachusetts, four condemned cannon, for the purpose of ornamenting the burial grounds of deceased Union soldiers.

Mr. CONVERSE. I move to insert my amendment for four condemned cannon and four cannon-balls for Ferncliff Cemetery, Springfield, Ohio.

Mr. ALDRICH. Any report in favor of this?

Mr. RANDALL. There has to be; that is the rule.

Mr. HARRIS, of Massachusetts. All these cases were reported favorably last year, but failed to pass. They are reported again this year. I drew the bill myself.

The committee divided; and there were—ayes 15, noes 4.

So the amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' CEMETERY, GALLIPOLIS, OHIO.

The next business was the bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby authorized to furnish such number of condemned cannon as may be required to Colonel L. Z. Cadot, Surgeon William S. Newton, and Major Samuel F. Neal, for the use and adornment of the soldiers' cemetery in the city of Gallipolis and State of Ohio.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' AND SAILORS' ASSOCIATION, BELLAIRE, OHIO.

The next business was the bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to deliver to the Soldiers' and Sailors' Association of Bellaire, Ohio, four condemned brass field-pieces, if the same can be spared without detriment to the Government, to aid in the erection of a monument to the memory of the Union soldiers and sailors of Belmont County, Ohio, killed in the late war of the rebellion.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SAMPSON POST NO. 22, GRAND ARMY OF THE REPUBLIC.

The next business was the bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby directed to turn over and deliver to Sampson Post, No. 22, of the Grand Army of the Republic, of Rochester, New Hampshire, to be placed about the soldiers' monument in said Rochester, four condemned cannon and two anchors.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' CEMETERY, OTSEGO, MICHIGAN.

The next business was the bill (H. R. No. 3333) to donate one condemned bronze cannon to the citizens of Otsego, Michigan.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the citizens of Otsego, Michigan, one piece of condemned bronze cannon, if the same can be spared without serious detriment to the Government, to place in their cemetery, near the soldiers' monument.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MORTON MONUMENTAL ASSOCIATION.

The next business was the joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he is hereby, authorized and directed to give to the Morton Monumental Association of the United States twelve condemned and unserviceable cannon and twenty-five cannon-balls, for casting a statue of Oliver P. Morton, late a Senator from Indiana, to be erected at the city of Indianapolis, Indiana.

Mr. PEELLE. I desire to move an amendment to this joint resolution. It provides for twelve condemned and "unserviceable" cannon. It may be that the cannon are condemned, and yet are not unserviceable. I move therefore to strike out the words "and unserviceable" from the bill in line 5; so that it will read, "twelve condemned cannon and twenty-five cannon balls," &c.

The amendment was agreed to.

The joint resolution as amended was laid aside to be reported to the House with the recommendation that it do pass.

EQUESTRIAN STATUE OF GENERAL REYNOLDS.

The next business was the joint resolution (H. R. No. 38) appropriating thirty condemned guns for the equestrian statue of Major-General John Fulton Reynolds, who fell at Gettysburgh, July 1, 1863.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he is hereby, directed to give to the Reynolds Monument Association thirty condemned cannon, to be used in making the bronze equestrian statue of the late General John Fulton Reynolds, who fell at the battle of Gettysburgh; and that the proper Department be, and it is hereby, authorized and directed to take such measures as shall be necessary to secure the co-operation of the Government in all ceremonies attending the laying of the corner-stone and the final unveiling of the proposed statue.

The joint resolution was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' MONUMENT, MANSFIELD, OHIO.

The next business was the bill (H. R. No. 4585) to donate two condemned bronze cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the mayor of the city of Mansfield, Ohio, for the benefit of said city, two pieces of condemned bronze cannon, if the same can be spared without serious detriment to the Government, to place on the public square of said city near the soldiers' bronze monument recently erected on said public square at a cost of $10,000, the gift of a patriotic and liberal-minded citizen.

The CHAIRMAN. This bill is reported with an amendment. The Clerk will read the amendment.

The Clerk read as follows:

Strike out the word "bronze," where it occurs in the bill, and insert the word "iron;" also amend the title so as to read: "A bill to donate two condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument."

The amendments were agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' CEMETERY, HAMILTON, OHIO.

The next business was the bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to furnish to Wetzel-Compton Post of the Grand Army of the Republic, at Hamilton, Ohio, such number of condemned cannon, not less than four, and of large size, and spherical shot, as may be required, for the use and adornment of the soldiers' cemetery in the city of Hamilton and State of Ohio.

Mr. MOREY. I desire leave to print some remarks in connection with that bill.

There was no objection. [See Appendix.]

The bill was laid aside to be reported to the House with the recommendation that it do pass.

STURTEVANT POST, NO. 2, GRAND ARMY OF THE REPUBLIC.

The next business was the bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby directed to turn over and deliver six condemned cannon to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, to adorn the soldiers' lot in the cemetery at Concord aforesaid.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MILAN, OHIO.

The next business was the bill (H. R. No. 3738) to donate bronze cannon to the township of Milan, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the mayor of Milan, Ohio, four condemned bronze cannon, if the same can be done without serious detriment to the Government, for the adorment of the monument erected in the village of Milan commemorating the names of soldiers who devoted and lost their lives in the service of the United States during the war of the rebellion.

The CHAIRMAN. The Clerk will report the proposed amendment to the bill.

The Clerk read as follows:

Strike out the word "bronze," where it occurs in the fifth line, and insert "iron;" and amend the title so as to read: "A bill to donate iron cannon to the township of Milan, Ohio."

The amendments were agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' AND SAILORS' MONUMENTAL ASSOCIATION OF LYCOMING COUNTY, PENNSYLVANIA.

The next business was the bill (H. R. No. 3877) donating condemned cannon and other munitions of war to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the public service, to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania, four condemned iron cannon and such other munitions of war as in his discretion may be deemed advisable for the purposes of said association.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

CONDEMNED CANNON, BRANDON, VERMONT.

The next business was the bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town.

The bill is as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the selectmen of the town of Brandon, in the county of Rutland, and State of Vermont, for the benefit of said town, four pieces of condemned iron cannon, if the same can be spared without serious detriment to the Government, to place on the public square of said town near a soldiers' monument to be erected on said square by said town.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

M'LEAN POST, NO. 16, GRAND ARMY OF THE REPUBLIC.

The next business was the bill (H. R. No. 5240) to authorize the Secretary of War to furnish a condemned cannon for the use of McLean Post, No. 16, of the Grand Army of the Republic.

The bill is as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to furnish to McLean Post No. 16 of the Grand Army of the Republic, at Reading, Pennsylvania, a condemned cannon or mounted field-piece of large size, for the use of said post.

The CHAIRMAN. The Clerk will report the amendment suggested by the committee.

The Clerk read as follows:

After the word "condemned," in line 6, insert the word "iron;" so that it will read:

"That the Secretary of War be, and he is hereby, authorized and directed to furnish to McLean Post, No. 16, of the grand Army of the Republic, at Reading, Pennsylvania, a condemned iron cannon or mounted field-piece of large size, for the use of said post."

The amendment was agreed to.

Mr. WILLIS. I desire to offer an amendment to this bill.

The Clerk read as follows:

Also six cannon and cannon-balls to the National Cemetery at Louisville, Kentucky, for monumental purposes.

The amendment was agreed to.

The CHAIRMAN. Without objection, the title of the bill will be amended to conform.

Mr. ALDRICH. I offer the amendment which I send to the desk.

The Clerk read as follows:

Four condemned cannon and twenty-five cannon-balls for the soldiers' burying ground in Oakwood Cemetery, in the village of Hyde Park, Cook County, Illinois, for monumental purposes.

The amendment was agreed to.

Mr. MOORE. I move to amend by inserting:

Six condemned cannon for the national cemetery at Memphis, Tennessee, and twelve cannon-balls.

The amendment was agreed to.

Mr. STEELE. I wish to offer an amendment:

Granting two cannon to General Shunk Post, Grand Army of the Republic, at Marion, Indiana.

Mr. McMILLIN. Not for monumental purposes?

Mr. STEELE. For the same purposes that the others have been granted.

Mr. McMILLIN. They are not for monumental purposes; let the amendment be read again.

The amendment was again read.

Mr. STEELE. You will see that these are for the same purpose as all the others. This bill reads:

To McLean Post, No. 16, at Reading, Pennsylvania, for the use of said post.

Mr. McMILLIN. This does not seem to be for monumental purposes. I will keep my eye on that when it comes into the House.

Mr. RANDALL. Keep your eye on that. That is all right. There is nothing the matter with that.

Mr. McMILLIN. If it is for other than monumental purposes, I will see to it.

Mr. RANDALL. The post, as I understand, have a lot in the cemetery for the burial of their members by their order, and they propose to erect a monument in the cemetery on that lot.

Mr. STEELE. That is as I understand it.

The amendment offered by Mr. STEELE was adopted.

The title of the bill was amended to conform to the amendments, and as amended the bill was laid aside to be reported to the House with the recommendation that it do pass.

SARATOGA MONUMENT ASSOCIATION.

The next business was the bill (H. R. No. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and is hereby, authorized to deliver to the Saratoga Monument Association the following cannon, &c., captured from General Burgoyne at Saratoga, and now on hand at the Watervliet arsenal, West Troy, New York, namely: four twelve-pounder guns, one eight-inch howitzer, one twenty-four pounder howitzer, one eight-inch mortar, and one twenty-four pounder mortar, all bronze.

Mr. NORCROSS. I move to amend the bill by adding four condemned cannon for monumental purposes to the Grand Army post located at Westminster, Massachusetts.

The amendment was adopted.

Mr. CANNON. I move to amend the bill so as to provide for donating four condemned cannon for monumental purposes at Danville, Illinois.

The amendment was adopted.

The title of the bill was amended so as to conform to the amendments, and as amended it was laid aside to be reported to the House with the recommendation that it do pass.

Mr. ALDRICH. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BURROWS, of Michigan, having taken the chair as Speaker *pro tempore*, Mr. BRIGGS reported that the Committee of the Whole House on the state of the Union had had under consideration sundry bills donating condemned cannon, &c., and had directed him to report the same back to the House with various recommendations.

BILLS PASSED.

The first bill reported from the Committee of the Whole House on the state of the Union with a favorable recommendation was the bill (H. R. No. 2195) donating condemned cannon to the Soldiers' Monument Association of Birmingham, Connecticut.

The SPEAKER *pro tempore*. In the absence of objection, the bill will be engrossed and read a third time.

Mr. McMILLIN. Mr. Chairman, I do not think that these bills ought to be passed to-night. We have not a full House, and I would request of the gentlemen in charge of the bills that they be permitted to go over under the previous question and let a full House operate on them to-morrow.

Mr. WILLIS. Does not the gentleman suppose they would pass in a full House?

Mr. McMILLIN. Yes, I think they would pass, but I think it is best when a large amount of property belonging to the Government is being appropriated that it be done by as full a House as possible.

Mr. REED. Do you want to put 290 power on this business?

Mr. McMILLIN. Besides it is nearly twelve o'clock, and we have been here between eight and nine hours to-day. I think it is time to adjourn.

Mr. PEELLE. It was understood this was to be a part of the business to be disposed of to-night.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The following bills and joint resolutions, reported from the Committee of the Whole House on the state of the Union without amendment, were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time and passed:

A bill (H. R. No. 3082) granting condemned cannon to the Anna M. Ross Post, No. 94, of the Grand Army of the Republic, of Philadelphia;

A joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls, for decoration of soldiers' cemetery;

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon-balls to aid in the construction of a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post, No. 22, of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned bronze cannon to the citizens of Otsego, Michigan;

A joint resolution (H. R. No. 38) appropriating thirty condemned guns for the equestrian stutue of Major-General John Fulton Reynolds, who fell at Gettysburgh, July 1, 1863;

A bill (H. R. No. 4585) to donate two condemned bronze cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton Ohio;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon; and

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont.

The following bills and joint resolution were reported by the Committee of the Whole House on the state of the Union with amendments; the amendments were agreed to, and the bills and joint resolution as amended were ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. No. 679) donating condemned cannon, &c., for monumental and other purposes;

A joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association;

A bill (H. R. No. 3738) to donate bronze cannon to the township of Milan, Ohio;

A bill (H. R. No. 3877) donating condemned cannon and other munitions of war to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for the use of McLean Post, No. 16, Grand Army of the Republic; and

A bill (H. R. No. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association.

Mr. PEELLE moved to reconsider the votes by which the above bills and joint resolutions were severally passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ALDRICH. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and fifty-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:

By the SPEAKER: The petition of J. Aretas Prime, for compensation for services rendered in the civil service of the United States—to the Committee on Claims.

By Mr. ATKINS: The petition of citizens of Madison and Henderson Counties, Tennessee, in favor of the construction of a ship-railway across the Isthmus of Tehauntepec—to the Committee on Commerce.

By Mr. BINGHAM: Three petitions of citizens of Philadelphia, Pennsylvania, for the passage of the French spoliation-claims bill—severally to the Committee on Foreign Affairs.

By Mr. BUTTERWORTH: The petition of James C. Hopple & Co. and 20 others, merchants of Cincinnati, Ohio, protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. CARPENTER: The joint resolution of the General Assembly of Iowa, in relation to the duty on steel blooms and wire rods—to the same committee.

By Mr. N. J. HAMMOND: Two petitions, signed by 510 citizens of Georgia, for the repeal of internal-revenue taxes—severally to the same committee.

By Mr. B. W. HARRIS: The petition of D. McDougal, rear-admiral United States Navy, relative to his retirement from the active list—to the Committee on Naval Affairs.

By Mr. HEPBURN: The petition of N. C. Redmour, for an increse of pension—to the Committee of Invalid Pensions.

By Mr. MATSON: The petition of Richard Jobes and 103 others, asking that said Jobes's pension be increased—to the same committee.

By Mr. MULDROW: The petition of T. B. Dalton and others, for an appropriation for educational purposes and for the distribution thereof on the basis of illiteracy—to the Committee on Education and Labor.

By Mr. O'NEILL: Paper of Professor A. L. Kennedy, president of the Pennsylvania Polytechnic College, suggesting certain inquiries to be

made as to the causes of the Mississippi River floods—to the Committee on Levees and Improvement of the Mississippi River.

Also, the petition of citizens of Pennsylvania, for the passage of a bill to settle the French spoliation claims and pay the claimants—to the Committee on Foreign Affairs.

By Mr. PAGE: The petition of Alex. R. Baldwin and others, and of Flint, Peabody & Co., of San Francisco, California, for the passage of the bill for the incorporation of the Maritime Canal Company of Nicaragua—to the same committee.

By Mr. REED: The petition of Maria Delaney, for compensation for destruction of property by authority of the District of Columbia—to the Committee on the District of Columbia.

By Mr. J. S. RICHARDSON: The petition of the Board of Trade of Columbia, South Carolina, relative to the proposed free ship-canal connecting the Chesapeake and Delaware Bays—to the Committee on Railways and Canals.

By Mr. O. R. SINGLETON: The petition of R. H. Camp and others, citizens of Mississippi, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. STONE: The petition of James E. Lothrop and others, of Dover, New Hampshire, and of J. H. Manly and others, of Augusta, Maine, for the survey of Sandy Bay, in Rockport, Massachusetts—severally to the same committee.

By Mr. VANCE: The petition of C. F. Davis for the establishment of a post-route from Coleman, North Carolina, to Merrittsville, South Carolina; also, the petition of H. G. Weaver for a mail-route from Marion to H. G. Weaver's, in the State of North Carolina—severally to the Committee on the Post-Office and Post-Roads.

By Mr. C. G. WILLIAMS, (by request and with the statement that he does not favor the relief asked:) The petition of Orrin W. Dunn and fourteen others, native-born citizens of Irish descent, of Milwaukee, Wisconsin, asking that the laws passed in relation to the importation or immigration of Chinese apply with equal effect to the importation or immigration of Irishmen—to the Committee on Foreign Affairs.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 22, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

LIGHT ON CHICAGO WATER-WORKS CRIB.

Mr. DAVIS, of Illinois. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the joint resolution (H. R. No. 186) authorizing the erection of a light on the tower of the Chicago water-works crib, Chicago, Illinois.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, authorized to cause the erection of a light on the tower of the Chicago water-works crib, Chicago Illinois; and that the provisions of section 355 and 4661 of the Revised Statutes be suspended as regards this light.

There being no objection, the joint resolution was brought before the House, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DAVIS, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOWMAN. I call for the regular order.

Mr. RANDALL. I ask leave to submit a resolution.

Mr. BOWMAN. I must call the regular order.

Mr. HAZELTON, (to Mr. BOWMAN.) Wait a little.

Mr. BOWMAN. Well, I will give notice that in fifteen minutes I will call the regular order.

Mr. TOWNSHEND, of Illinois. Why not now allow the proposition to be submitted to the House and acted on to call the roll of members alphabetically, so that each may submit a proposition to the House.

Mr. ROBESON. I object.

Mr. BOWMAN. I promised yesterday to try and get an order of the House to close debate at three o'clock to-day on the bill referring claims to the Court of Claims. If I am to be held to that promise, I must insist upon the regular order as soon as possible, and I will do so at the end of fifteen minutes.

CULTIVATION OF CINCHONA.

Mr. RANDALL. I ask unanimous consent that the resolution which I send to the Clerk's desk be considered at this time.

The Clerk read as follows:

Resolved, That the Commissioner on Agriculture be requested to inform this House whether any portion of the United States is adapted to the growth of cinchona.

Mr. RANDALL. I have taken this opportunity to introduce this subject so that I may state and have printed in the RECORD my reasons for doing so. The subject is an important one, and I desire to call to it the attention of those who are interested in the growth of this tree in the United States. I have been more directly moved to submit the resolution by a letter, which I hold in my hand, from Professor Alfred L. Kennedy, of the Polytechnic College, Philadelphia. The letter is as follows:

POLYTECHNIC COLLEGE,
Philadelphia, April 20, 1882.

MY DEAR SIR: You are doubtless fully aware that the plantations of cinchona or Peruvian bark, from which the world derives its supply of *quinia*, are in jeopardy, and that Holland and England have with a wise forecast already provided against probable contingencies by establishing in their Asiatic possessions plantations of the tree. It is so evidently the duty of our country to imitate this example, that I beg to suggest the passage by Congress of a resolution requesting the Secretary of the Interior to institute full and careful inquiry, and report to Congress whether any part of the public domain is adapted to the growth of the cinchona, with the view of having that portion reserved from sale until Congress take action on the report.

The tree grows well up in the slopes of the Andes, in a rare and temperate atmosphere. Its cultivation in Asia has already afforded a bark yielding a higher percentage of the active principle than the bark imported from Peru. There should be no opposition to a resolution of this kind, and although you are, I know, very much occupied, I trust that you will find time to prepare and present it at an early day.

Very truly, your friend,

ALFRED L. KENNEDY.

Hon. S. J. RANDALL, M. C., *Washington, D. C.*

The resolution was adopted.

Mr. RANDALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SPRINGFIELD STREET RAILWAY COMPANY.

Mr. ROBINSON, of Massachusetts. I ask unanimous consent that House bill No. 713 be taken from the House Calendar and put upon its passage at this time. It is a bill granting to the Springfield Street Railway Company the right to lay tracks in Mill street in Springfield, Massachusetts.

Mr. HOLMAN. Let the bill be read.

Mr. ROBINSON, of Massachusetts. I think there will be no objection to passing the bill, if members will listen to it when it is read.

The bill was read, as follows:

Be it enacted, &c., That the Springfield Street Railway Company is hereby authorized to lay and maintain its tracks in Mill street, so called, in Springfield, Massachusetts, on land owned by the United States, from Central street to a point opposite Lincoln Hall, so called, with the privilege of hereafter extending its tracks from that point to the limits of the land of the United States, near Walnut street: *Provided, however*, That the said company shall remove said tracks whenever thereto directed by the Secretary of War or any person acting under or by virtue of authority from him: *And provided further*, That the right to repeal, alter, or amend this act is reserved to Congress.

Mr. HOLMAN. I would inquire if this bill has been reported from any committee?

Mr. ROBINSON, of Massachusetts. It has been reported unanimously by the Committee on Military Affairs of this House, and it was favorably reported by the Committee on Military Affairs in the last Congress. It has the indorsement of the War Department, as shown by a letter which I have here, and which I will incorporate in my remarks.

This Mill street is in a thickly settled portion of the city of Springfield. The fee of the street belongs to the United States. Many of the persons living along the line of the street are employés of the Government in the United States armory. The road has already been built under the permission of the Secretary of War, and now requires the indorsement of Congress.

The letter from the War Department is as follows:

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, February 2, 1882.

SIR: In reply to your letter of yesterday, I have the honor to inform you that the amendment to this bill 713, requiring the railway company to keep the street paved three feet outside of rails, was suggested by the commanding officer, national armory, and has been recommended. If the proviso in the bill "that the said company shall remove said tracks whenever thereto directed by the Secretary of War, or any person acting under or by virtue of his authority" surrounds the grant with all the safeguards necessary, I should think a mere explanation would suffice to show that the amendment need not be made.

Respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

Hon. GEORGE D. ROBINSON,
House of Representatives.

There being no objection, the bill was taken from the House Calendar, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBINSON, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ACCOUNT WITH SOUTH CAROLINA FOR ARMS.

Mr. RICHARDSON, of South Carolina. I ask unanimous consent that Senate bill No. 1082 be taken from the Speaker's table for consideration at this time. It is a bill authorizing the Secretary of War to adjust and settle the account for arms between the State of South Carolina and the Government of the United States.