

Mr. HARDENBERGH. Absent on leave.  
 Mr. HARDY. No excuse offered.  
 Mr. HARMER. No excuse offered.  
 Mr. HARRIS, of New Jersey. No excuse offered.  
 Mr. HAWK. No excuse offered.  
 Mr. HEWITT, of New York. Absent on leave.  
 Mr. HILL. Absent on leave.  
 Mr. HOBLITZELL. No excuse offered.  
 Mr. HOOKER. No excuse offered.  
 Mr. HERR. No excuse offered.  
 Mr. HUBBS. Absent on leave.  
 Mr. HUTCHINS. No excuse offered.  
 Mr. JONES, of New Jersey. Heretofore excused.  
 Mr. JORGENSEN. No excuse offered.  
 Mr. JOYCE. Absent on leave.  
 Mr. KETCHAM. No excuse offered.  
 Mr. KNOTT. Heretofore excused.  
 Mr. LATHAM. Absent on leave.  
 Mr. LEEDOM. Heretofore excused.  
 Mr. LE FEVRE. No excuse offered.  
 Mr. LINDSEY. Absent on leave.  
 Mr. MARTIN. No excuse offered.  
 Mr. MASON. No excuse offered.  
 Mr. McLANE. Absent on leave.  
 Mr. MORSE. Absent on leave.  
 Mr. MOSGROVE. Absent on leave.  
 Mr. MOULTON. Absent on leave.  
 Mr. MURCH. Absent on leave.  
 Mr. NOLAN. No excuse offered.  
 Mr. PAGE. No excuse offered.  
 Mr. PAUL. Absent on leave.  
 Mr. REED. Heretofore excused.  
 Mr. ROBINSON, of New York. No excuse offered.  
 Mr. ROSECRANS. No excuse offered.  
 Mr. ROSS. No excuse offered.  
 Mr. SCALES. Absent on leave.  
 Mr. SCOVILLE. Absent on leave.  
 Mr. SHALLENBERGER. Absent on leave.  
 Mr. SHELLEY. No excuse offered.  
 Mr. SHERWIN. No excuse offered.  
 Mr. SINGLETON, of Illinois. Heretofore excused.  
 Mr. SINGLETON, of Mississippi. No excuse offered.  
 Mr. STEPHENS. Heretofore excused.  
 Mr. TALBOTT. No excuse offered.  
 Mr. TOWNSEND, of Illinois. Absent on leave.  
 Mr. TUCKER. No excuse offered.  
 Mr. UPSON. No excuse offered.  
 Mr. WADSWORTH. No excuse offered.  
 Mr. WALKER. No excuse offered.  
 Mr. WASHBURN. Absent on leave.  
 Mr. WATSON. No excuse offered.  
 Mr. WILLIS. No excuse offered.  
 Mr. WILSON. Absent on leave.  
 Mr. WISE, of Virginia. No excuse offered.  
 Mr. WISE, of Pennsylvania. No excuse offered.  
 Mr. BENJAMIN WOOD. Absent on leave.  
 Mr. CALKINS. It is perfectly evident that it is impossible to get a quorum here to-day of members who will vote. I move to dispense with all further proceedings under this call.  
 The motion was agreed to.  
 Mr. CALKINS. I now give notice that on Monday morning I will renew my effort to take up this election case; and I now move that the House adjourn.  
 The motion was agreed to; and accordingly (at three o'clock and twenty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, memorials, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:  
 By Mr. CULBERSON: The petition of D. T. Neares and others, citizens of Wood County, Texas, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Commerce.  
 By Mr. DEERING: The petition of A. W. Hicks and others, who served on the Queen of the West, for relief—to the Committee on Naval Affairs.  
 By Mr. DINGLEY: The petition of citizens of Brighton, Maine, for the suppression of polygamy—to the Committee on the Judiciary.  
 By Mr. HERBERT: The petition of citizens of Montgomery County, Alabama, for an appropriation for educational purposes—to the Committee on Education and Labor.  
 By Mr. LINDSEY: The petition of Andrew Morse, for an extension or reissue of a patent for sea-propelling fog-signals—to the Committee on Patents.  
 By Mr. O'NEILL: Memorial of the Philadelphia Board of Trade, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.  
 By Mr. PRESCOTT: The petition of L. K. Gillespie relative to bill (H. R. No. 6150) providing for the regulation of fees for attorneys

and agents in pension cases—to the Committee on Invalid Pensions.

By Mr. REAGAN: The resolutions and petition of Burkeville (Texas) Grange, No. 976, requesting the Senators and Representatives of Texas to advocate and vote for the Eads ship-railway—to the Committee on Railways and Canals.

By Mr. SCRANTON: The petition of Ely Post No. 97 Grand Army of the Republic, of Wilkesbarre, Pennsylvania, for passage of bill to increase the pensions of all pensioners who lost an arm or leg to \$40 per month—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. VANCE: The petition of F. J. Rickman and 100 others, citizens of North Carolina, for the establishment of a post-route from Hendersonville to Fairview—to the same committee.

By Mr. VAN VOORHIS: The petition of Robert Hammond and others, for the passage of the bill providing an increase of pension to all soldiers who lost an arm or a leg while in the line of duty—to the same committee.

#### SENATE.

MONDAY, May 22, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.  
 The Journal of the proceedings of Friday last was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. LAPHAM. I present a petition of sundry citizens of the Territory of Washington, embracing the officers of that Territory, the associate justices of the supreme court, the secretary of the Territory, and a large number of business men and other citizens, praying that in any act for the admission of Washington Territory or any other Territory as a new State the word "male" be omitted in the suffrage clause of its constitution. I move the reference of the petition to the Committee on Territories.

The motion was agreed to.

Mr. LAPHAM. I present a petition of citizens of another part of the Territory of Washington, signed by a very large number of persons, to the same effect. I move the reference of the petition to the Committee on Territories.

The motion was agreed to.

Mr. BROWN. I present a series of joint resolutions passed by the General Assembly of the State of Georgia requesting her Senators and Representatives in Congress to use all the influence possible to secure proper appropriations for the education of the people. As the resolutions are those of the Legislature of my State I ask that they be printed in the RECORD.

The resolutions were referred to the Committee on Education and Labor, and ordered to be printed in the RECORD, as follows:

#### RESOLUTION REQUESTING REPRESENTATIVES IN CONGRESS TO ENDEAVOR TO SECURE APPROPRIATIONS FOR EDUCATION.

Whereas the impoverishment of the South, caused by the late unhappy war, has made it up to the present date almost impossible for the Southern State governments to make anything like adequate provision for the education of the youth of the South; and

Whereas the freeing and enfranchisement of the colored race by the act of the Government of the United States has made it necessary that the youth of that race be prepared by education for the discharge of the duties of citizenship; and

Whereas the difficulties of the Southern educational problem are increased more than a hundred-fold by the fact that the people of the colored race, constituting nearly one-half of the entire population, are still to a large extent without any property that may be taxed; and

Whereas the whole country is put in peril by the prevalence of ignorance in any part of it: Therefore,

Be it resolved by the senate and house of representatives of the State of Georgia, That the extending of aid by the General Government to the struggling State governments of the South in their efforts to build up efficient systems for the education of the masses is eminently wise and proper.

Resolved, That we have observed with approval and gratification the efforts now being made in Congress to raise an educational fund to be distributed among the States for a term of years upon the basis of illiterary, and afterward upon the basis of school population, and to be applied to educational purposes under the laws of the several States.

Resolved, That our Senators and Representatives in Congress are hereby requested to give their earnest support to that one of the measures referred to in the foregoing resolution which is most liberal in appropriation and which secures to the fullest extent the right of local control in the application thereof.

Resolved, That as the State of Georgia does not now make any discrimination between the races in applying State educational funds, we hereby pledge the honor of the State to the same impartiality in applying any fund which may be provided by the General Government.

Resolved, That the governor is hereby requested to transmit copies of the foregoing preamble and resolutions to our Senators and Representatives, to be laid by them before the two Houses of Congress.

Approved September 23, 1881.

Mr. SAUNDERS. I present a petition of the Santee Sioux Indians, praying for the construction of a bridge across the Bazile in Knox County, Nebraska. The bridge desired is on the reserve, and is properly a subject of legislation by Congress. I move the reference of the petition to the Committee on Indian Affairs.

The motion was agreed to.

Mr. COCKRELL. I present the memorial of the Academy of Science of the city of Saint Louis, in the State of Missouri, upon the subject of House bill No. 4726, which I ask to have read.

The memorial was read, as follows:

ACADEMY OF SCIENCE,  
SAINT LOUIS, MISSOURI, UNITED STATES OF AMERICA.

To the honorable the Senate and House of Representatives  
of the United States of America:

The memorial of the Academy of Science of Saint Louis respectfully represents that your memorialists respectfully request that the honorable Houses of Congress will duly and carefully consider the House bill No. 4726, authorizing the President of the United States to appoint a committee of experts for the purpose of testing the strength of materials of construction in large sections. That in the principle of the proposed act we recognize an absolute necessity for the proper protection of life and property in the construction of public works, and earnestly urge that this or a similar measure shall be made a law at this session of Congress. And your memorialists further pray that such an appropriation may be made as will enable the purposes of said bill to be fully attained.

With sentiments of high regard, I have the honor to be, very respectfully, your obedient servant,

NATHANIEL HOLMES,  
Corresponding Secretary of the Saint Louis Academy of Science.

Mr. COCKRELL. I ask that the memorial be referred to the Committee on Manufactures.

Mr. McMILLAN. Ought it not to go to the Committee on Commerce? It relates to the construction of public improvements, bridges, &c.; and I suppose it should be referred to the Committee on Commerce.

Mr. COCKRELL. It relates to testing the strength of metallic and other substances that go into the structure of railroad bridges, public buildings, and everything of that kind, and I suppose it should be referred to the Committee on Manufactures.

Mr. McMILLAN. Of course if the Senator desires that reference I make no objection.

The PRESIDENT *pro tempore*. The memorial will be referred to the Committee on Manufactures.

Mr. GEORGE presented the petition of Alvah W. Hicks, of Washington, District of Columbia, late a pilot in the United States Navy, praying for arrears of compensation; which was referred to the Committee on Naval Affairs.

Mr. MORGAN. I present the petition of R. S. Cox and a number of other citizens of Tuscaloosa County, Alabama, on the subject of a provision by Congress for the education of the people, which I move be referred to the Committee on Education and Labor.

The motion was agreed to.

Mr. MORGAN. In the same connection I present a petition of Hon. J. L. M. Curry, of Richmond, Virginia, general agent of the Peabody educational fund. I have examined the petition and it is a very able paper. I ask that it be printed in the RECORD.

The PRESIDENT *pro tempore*. It will be so ordered if there be no objection.

The petition was ordered to be printed in the RECORD, as follows:

To the honorable the Senate and House of Representatives  
of the United States in Congress assembled:

Your petitioner, the general agent of the Peabody education fund, would respectfully represent—

That on 8th March, 1880, the trustees of the Peabody education fund submitted a memorial to Congress on "the vital necessity of national aid for the education of the colored population of the Southern States, and especially of the great masses of colored children who are growing up to be voters under the Constitution of the United States." They accompanied their memorial by a report which had been prepared by a committee of their body, consisting of Hon. Alexander H. H. Stuart, of Virginia, Chief Justice Morrison R. Waite, of Ohio, and Hon. William M. Everts, of New York. The attention of Congress is invited anew to that very able and conclusive paper. Since the presentation of that memorial, the subject of national aid has assumed larger proportions in the public mind and in the public conscience.

The census of 1880 exposes a fearful amount of illiteracy in the United States. As might have been expected, for an obvious reason, that illiteracy exists largely, disproportionately, in the lately slaveholding States. In *ante bellum* days the negroes were not educated. Since the abolition of slavery—a fact which no sane man would undo—the South, although making patriotic and self-sacrificing efforts in that direction, has failed, as all familiar with her pecuniary condition could have foreseen, to provide universal education for her people. The history of our country, prolific in instances of exalted patriotism and ready adaptation to local and national exigencies, furnishes no exhibition of these virtues superior to the attempt of the Southern States to meet the unfamiliar and difficult, but cheerfully assumed obligation of giving rudimentary instruction to all classes, irrespective of race, color, or previous condition of servitude. The history of public schools in those States is a chapter of peculiar interest in the general history of our institutions and civilization. The credit due to an impoverished people, bravely struggling to do their part in the new and strange environments, is shared by religious bodies and individual citizens of the North, who, comprehending the needs of the young, have generously and munificently contributed money to supply them with the means of education. Hard experience has demonstrated the inability of the Southern States, unaided, to sustain the heavy burden of universal education. If illiteracy is to be removed, or prevented in the future, the States must receive liberal and prompt aid from the General Government.

This aid should be rendered in co-operation with the school systems of the States. Those systems, varying in details, but generally copied from the systems which exist in the Northern States, are the outgrowth of the convictions of the people. Year by year they are being adapted to the wants and peculiarities of communities and States; constitutions command free schools; statutes establish and provide for them; State and local officers administer; State revenues are increasingly supplemented by local taxation. No organized opposition to public schools can be found; political parties are zealous to declare their purpose to sustain and perfect; press associations approve and newspapers give their valuable support; legislatures invite educators and advocates of free schools to address them; the people are willing and eager to be informed and to adopt improved methods of instruction and school management. With probably the most extensive acquaintance with school officers in the South possessed by any man in the Union, acquired by personal intercourse with them, I make bold to affirm that no departments of government have better qualified, more patriotic, more trustworthy, more enlightened administrators. What is needed for success in making education universal is not severe Federal supervision, subordination of State schools to central authority, but a well-guarded and adequate appropriation of public money.

Of the extent of the illiteracy, your honorable bodies, having ready access to

the latest census returns and to careful compilations of school statistics, need not to be informed. On the dangers of this illiteracy it would be superfluous to enlarge. The basis of our free government is intelligence and integrity. Free government presupposes intelligent self-government. The mere possession of power by the people is no assurance nor guarantee of good government. Civil government can dispense with arbitrary restraints and with physical power; can allow the possession and enjoyment of personal liberty just in so far as the citizens impose, voluntarily and intelligently, restraints upon themselves. Free governments, governments of the people and by the people, allowing and securing the largest measure of individual freedom, are compatible only with popular education. It is idle to hope for free government or republican institutions apart from free schools.

From the act of the Continental Congress on the 20th of May, 1785, for the disposition of the lands ceded by Virginia and the other States to the present time the United States is committed to the principle that "popular education is the only safe and stable basis for popular liberty" and to the policy of using Government property in aid of public schools. What was a privilege and duty in the past has now become an imperative obligation. The general argument for Congressional intervention to remove or prevent illiteracy becomes stronger when applied to the negroes. As is stated in the report to which attention has been called, the production of the pen of an honored and venerable statesman of Virginia, they are an "exceptional class of our population," and as such have peculiar claims on the justice and bounty of the Federal Government.

Their ancestors did not come voluntarily to this country seeking to better their condition, as come the immigrants who by thousands are now flocking to our shores. They were brought forcibly as slaves and were held as such prior to the Revolution by the connivance and direct action of the mother country and under the authority of the laws of all the States. When the war for Independence closed slavery existed in all the colonies. The Federal Constitution sanctioned the institution. In the exercise of its discretion the Federal Government emancipated the slaves, elevated them to the dignity of American citizens, and invested them with the right of suffrage. "Slavery is but half abolished, emancipation is but half completed, while millions of freemen with votes in their hands are left without education." The new citizens need to be made to comprehend the duties of citizenship, to be taught the nature and benefits of the political rights they enjoy. From manumission and enfranchisement there is on the part of the Government a resulting obligation to secure to those suddenly exalted to citizenship and suffrage that amount of education which is necessary to enable them to discharge intelligently the new duties devolved.

*Inter arma leges silent* is recognized in times of extreme peril as a legal maxim. When the national life is endangered the Constitution yields to a liberal interpretation. The latitude is not because of war but because of the crisis which war sometimes creates. If the necessity be as great, the peril as imminent in time of peace as in time of war, then with equal reason may be invoked the principle, *salus reipublice est suprema lex*. That masses of ignorant voters constitute a national peril, justifying a resort to the "extreme medicine of the Constitution," it would be an insult to your honorable bodies to argue.

The evils of ignorant voting cannot be exaggerated. Four Presidents, in succession, with increasing emphasis, have invited the attention of Congress to legislation on the subject. State Legislatures, educational conventions, religious assemblages, public press and private citizens swell the demand for immediate and effective measures of relief.

It seems that each generation must pass through its own trials, as each person must be disciplined for his own improvement and growth. We reap the fruits of the sacrifices and achievements of our ancestors, but for ourselves we must endure trials and meet responsibilities. Our Republic is a holy trust. Much as our fathers did, none the less are we required to do. Free institutions are still an experiment. They are on trial before the world. No peril is greater, more insidious, more pervasive, arouses more the apprehension of the patriot than the illiteracy of citizens. Fortunately the evil is remediable, and the remedy is in your hands.

Your petitioner earnestly invokes your intelligent and continuous attention to the dangers which come from so much illiteracy, and trusts that action, prompt and adequate to meet the emergency, will be had before your adjournment.

J. L. M. CURRY.

RICHMOND, VIRGINIA, May 17, 1882.

Mr. MORGAN. I wish to say that I do not concur in the statement of the gentleman or in the doctrine that the taxing power of the Government of the United States ought to be exercised to raise money for the education of the people in the States. Where we have public land or other Government property subject to our disposal for the general welfare, I have no objection to disposing of it and turning the proceeds into the educational fund of the State; but I do not concur in the doctrine that we have the right to use the taxing power of the Government of the United States to raise money to educate the people in the respective States. I move that the petition be referred to the Committee on Education and Labor.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence; and

A joint resolution (H. R. No. 212) making an appropriation to supply a deficiency in the appropriations for the payment of Army pensions of the United States for the fiscal year ending June 30, 1882.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 5540) to authorize the receipt of United States gold coin in exchange for gold bars.

#### REPORTS OF COMMITTEES.

Mr. CAMDEN. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. No. 1534) granting a pension to Eliza Hudson, to report it adversely. I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the petition of J. W. Johnson, late a private of Company C, Forty-ninth Regiment Ohio Volunteers, praying for arrears 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.

He also, from the same committee, to whom were referred the following bills, submitted adverse reports thereon, which were ordered to be printed; and the bills were postponed indefinitely:

A bill (S. No. 1767) granting a pension to William Foose;

A bill (S. No. 444) granting a pension to Adolph Goldt;

A bill (H. R. No. 329) granting a pension to Sylvia Jenks;

A bill (S. No. 1765) granting a pension to William R. Snook;

A bill (S. No. 1715) granting an increase of pension to Wilson Millar;

A bill (H. R. No. 627) to increase the pension of James E. Gott; and

A bill (S. No. 908) granting a pension to Susan L. Watson.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (H. R. No. 801) to increase the pension of Merritt Lewis, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (S. No. 654) granting an increase of pension to Rebecca Reynolds, reported it with an 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. 5809) for the relief of Jacob Humble, reported it without recommendation, and submitted a report thereon.

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

Mr. GARLAND, from the Committee on the Judiciary, to whom was referred the bill (S. No. 1878) to attach the county of Dade, in the State of Florida, to the southern district of Florida, reported it with an amendment.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1462) granting a pension to Lewis Blundin, 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 following bills, submitted adverse reports thereon, which were ordered to be printed; and the bills were postponed indefinitely:

A bill (S. No. 259) for the relief of Samuel C. Van Honten;

A bill (H. R. No. 2877) for the relief of William M. Meredith;

A bill (S. No. 904) granting a pension to John M. Broome; and

A bill (H. R. No. 5703) to increase the pension of Alban H. Nixon.

Mr. HARRIS. The Select Committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, to whom were referred certain petitions of citizens of the State of Massachusetts and the State of New York praying for legislation to define the functions of the National Board of Health, instruct me to report the same back in order that they may go upon the files of the Senate, accompanied by a written report, which I ask to have printed.

The PRESIDENT *pro tempore*. The report will be printed, and the committee will be discharged from the further consideration of the petitions.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1020) granting an increase of pension to Alfred G. Fifield, reported it with amendments; 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. 1442) for the relief of William Richards, 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. 1852) granting a pension to Mrs. Florida G. Casey, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. BLAIR. I am also instructed by the Committee on Pensions, to whom was referred the bill (S. No. 1659) granting a pension to Mrs. Ellen M. Boggs, to report it back adversely, and to recommend its indefinite postponement. Let it be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

#### BILLS INTRODUCED.

Mr. LAPHAM asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1910) granting an increase of pension to Mrs. Mary K. S. Eaton; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MILLER, of California, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1911) granting a pension to Theresa Crosby Watson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. ALDRICH asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1912) granting a pension to Amos C. Weeden; which was read twice by its title, and referred to the Committee on Pensions.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1913) for the relief of William Bowen; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. GORMAN asked and, by unanimous consent, obtained leave

to introduce a bill (S. No. 1914) to provide for the erection of a public building in the city of Annapolis, Maryland; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. COCKRELL. I ask leave to introduce, by request, two bills. I am not acquainted with the facts in the cases.

By unanimous consent, leave was granted to introduce a bill (S. No. 1915) for the relief of Samuel S. Vinton; which was read twice by its title, and referred to the Committee on Claims.

By unanimous consent, leave was granted to introduce a bill (S. No. 1916) for the relief of Maria E. Brierly, Eveline Brierly, Pauline Dumars, (late Pauline Brierly,) and Thomas H. Brierly, jr.; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. FERRY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1917) to extend the provisions of the act entitled "An act to provide compensation for the services of George Morell in adjusting titles to land in Michigan; which was read twice by its title, and referred to the Committee on Claims.

Mr. McMILLAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1918) for an appropriation to continue the work of dredging in the harbor of Duluth, Minnesota; which was read twice by its title, and referred to the Committee on Commerce.

Mr. MILLER, of California, asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 70) to authorize the President to declare martial law in the Territory of Alaska; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1919) granting an increase of pension to Thomas H. Allen; which was read twice by its title, and referred to the Committee on Pensions.

#### AMENDMENTS TO BILLS.

Mr. LAPHAM. I submit an amendment to the Army appropriation bill, and I ask its reference to the Committee on Military Affairs with a view of having their recommendation to the Committee on Appropriations. There is an accompanying letter on the subject, which I move be also referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. JONAS submitted an amendment intended to be proposed by him to the bill (H. R. No. 6184) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

#### STATISTICAL ABSTRACT FOR 1881.

Mr. SHERMAN. I offer the following resolution:

*Resolved*, That 5,000 extra copies of the Statistical Abstract of the United States for 1881 be printed for the use of the Senate.

I wish to call the attention of the Senate to the importance and value of this Statistical Abstract, which contains an epitome of all the tables relating to finance, coinage, commerce, immigration, population, railroads, agriculture, &c. It is founded upon the English Statistical Abstract, which is considered of great value, and is published there in very large numbers. I wish to call the attention of the Senate and of the Committee on Printing to this abstract. In my judgment it is altogether the most valuable statistical document published by the United States. I move that the resolution be referred to the Committee on Printing.

The motion was agreed to.

#### SCIENTIFIC EXPLORATION OF ALASKA.

The PRESIDENT *pro tempore*. If there be no further routine morning business, the morning hour is closed, and the first case on the Calendar under the Anthony rule will be called.

The bill (S. No. 360) to provide for a scientific exploration of the Territory of Alaska was announced as first in order on the Calendar.

The PRESIDENT *pro tempore*. The Senator from South Carolina [Mr. BUTLER] who reported this bill is not present. Unless there is some gentleman who wishes to have it considered, the bill will be passed over.

Mr. GARLAND. Let it be passed over without prejudice.

Mr. SHERMAN. I think the bill can be passed by a mere reading, but if anybody objects it may go over.

Mr. GARLAND. I cannot hear the Senator from Ohio.

Mr. SHERMAN. I introduced the bill, and it was reported back by the Senator from South Carolina. I think upon a reading of the bill every one will be in favor of it.

Mr. GARLAND. I am very glad to hear the statement. I did not know that the Senator was taking any particular interest in the matter. I am perfectly willing to have the bill considered now.

Mr. SHERMAN. As the Senator from South Carolina is absent, and knows more about the subject than I do, I have no objection to the bill going over, if that is desired.

Mr. MERRILL. I suggest that it had better be acted on now.

Mr. SHERMAN. I think it can be passed now.

The PRESIDENT *pro tempore*. Shall the bill be considered?

Mr. GARLAND. I have no objection.

Mr. SHERMAN. I ask that the bill be considered now, and if there is any objection to it, then let it go over.

The Acting Secretary read the bill.

Mr. DAWES. I think the bill had better go over.

Mr. SHERMAN. Let it go over without prejudice.

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

#### MONEY PAID INTO COURT.

The bill (S. No. 1456) to secure the safe-keeping of money paid into court was considered as in Committee of the Whole. It provides that all moneys paid into any court of the United States, in any cause pending or adjudicated in such court, shall be forthwith deposited with the Treasurer, an assistant treasurer, or a designated depository of the United States, or some bank of deposit and exchange, to be designated by order of the court, where there is no Treasurer, assistant treasurer, or designated depository of the United States, in the name and to the credit of such court.

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

#### GENERAL D. C. THOMAS.

The bill (H. R. No. 2012) to increase the pension of General D. C. Thomas was announced as next in order on the Calendar.

The PRESIDENT *pro tempore*. This bill was reported adversely by the Committee on Pensions.

Mr. HARRISON. Although there is an adverse report of the committee, I should like to have the attention of the Senate to the bill, and to have a vote upon the question.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which provides for paying to DeWitt Clinton Thomas, late a colonel and brevet brigadier-general of volunteers in the Army of the United States, a pension at the rate of \$50 per month, in lieu of the pension heretofore granted to him under the provisions of the general pension laws.

Mr. PLATT. Let the report be read.

The Acting Secretary read the following report, submitted by Mr. PLATT on the 3d of April:

The Committee on Pensions, to whom was referred the bill (H. R. No. 2012) to increase the pension of General D. C. Thomas, have had the same under consideration, and report as follows:

The claimant was colonel of the Ninety-third Regiment Indiana Volunteers and brevet brigadier-general of volunteers, and is now receiving the highest pension allowed by law. From the report of the House Committee on Invalid Pensions we extract the following statement of facts:

"That General Thomas, who had been a soldier in the Mexican war and was twice wounded in that service, was enlisted for the late war on the 21st day of October, 1862. He was at that date mustered in as colonel of the Ninety-third Regiment Indiana Infantry Volunteers.

"At the battle of Nashville he was twice wounded, first by a cannon ball which passed through the shoulders of his horse while he was in the saddle, paralyzing his lower extremities, and afterward was wounded in the head by the explosion of a shell, which rendered him insensible. He partially recovered and was assigned to light duty, and was at length discharged from the Army on the 10th of August, 1865.

"On the 18th of August, 1871, he was granted a pension of \$10 per month, but upon proof of continually increasing disabilities from the effect of said wounds his pension was increased first to \$15 a month and subsequently to \$30 a month.

"It appears by the surgical examination of the Pension Office, dated September 13, 1877, that at that time the effect of both said wounds had produced total disability, and that the brain trouble was still increasing, and with the infirmities of advancing years the consequences of said wounds are becoming continually more and more distressing."

General Thomas was a farmer prior to the war, but by reason of his wounds has been unable since the war to follow his previous avocation. He was elected justice of the peace, and during the term of his office derived a livelihood therefrom; obtaining a knowledge of law, he was admitted to practice, and is now following his profession, but by reason of his infirmities is unable to secure or attend to very much business. He has been allowed arrears, so that he has received \$30 per month from the date of his discharge. He does not come under the provision of law rating him for such total and permanent helplessness as requires the regular and personal attendance of another person. While there is much in his disability to create sympathy, the committee are unable to distinguish his case from that of many others, and are unwilling to recommend the increase of his pension to \$50 per month. They therefore ask that the bill be indefinitely postponed.

Mr. PLATT. If I thought the Senate had listened to the reading of the report and fully understood the case, I certainly should not make any remarks.

This is an application to increase the pension of Colonel D. C. Thomas, of Indiana, from \$30 a month, the highest rate which the law allows to his rank, to \$50 a month. He does not come within the class of persons to whom the law gives \$50 a month; that is to say, he does not require the regular personal aid and assistance of another person. He is not entirely disqualified or incapacitated from work at his profession.

It is a case which excites sympathy, but if granted it will be the first case in which a pension of \$50 a month has been allowed to a colonel by special act, so far as I know. In the opinion of the committee it is a very bad precedent to set.

Mr. HARRISON. I should like to get the attention of the Senate while I state very briefly the facts of this case as they appear from the two reports, the one made by the Pensions Committee of the House and the other by the Pensions Committee of this body. I desire the Senate to understand first that this is a House bill. It was favorably reported by the committee of the House and passed that body. Extracts from the House report appear in the report of the Senate Committee, but not all that is said in the House report.

General Thomas, as he is called, (his rank in our late war was that of colonel of volunteers,) was a soldier in the Mexican war, and he was twice wounded in that war. He was a soldier in the last war,

and was twice wounded in that war. He has received four severe wounds in two different wars in defense of the flag. He is now an old man over seventy years of age. The report of the committee of the House shows that he is practically totally disabled. While it may be true that he does not require the constant attendance of some one to nurse him, he is practically totally disabled and unable to earn anything for his own support.

I appeal to the Senate to settle the question whether, if this be an exceptional case, it is not a good case in which to make an exception; whether we cannot afford as a people to recognize the distinguished and self-sacrificing services of this old veteran who shed his blood in Mexico, and shed his blood in the late war for the flag, and if we cannot afford to give him \$50 a month for the few years that he has yet to him. He has passed his three score and ten now, and by the infirmities of age and, as the House report shows, the increasing disability as the result of these wounds, he cannot have many years yet before him of life.

I therefore appeal to the Senate to pass the bill as it has passed the House, and let this veteran go upon the rolls having a pension upon which he can decently subsist for the few years of his life that yet remain.

Mr. MILLER, of California. Mr. President, this is an extraordinary case. There is probably not another like it in the whole country. It is conceded, I suppose, that if this man had been a brigadier-general there would not have been any difficulty under the circumstances, considering the services rendered, his gallantry in action, the sacrifices he had made, his age, and his condition, in giving him the increased pension of \$50 a month. That he was not a brigadier-general is not his fault. He ought to have been made a brigadier to the exclusion of some other man who was made a brigadier-general who never rendered half the services that he did. We all know that during our war the matter of promotion was exceedingly well managed by a certain class of officers, and we know moreover that the most worthy, those who did the best service, did not always get the promotion.

I agree entirely with the Senator from Indiana [Mr. HARRISON] that this is a good case to make an exception; you will never find a better. I hope the Senate will feel it to be its duty to grant the extension of pension to this old man.

Mr. PLATT. Mr. President—

The PRESIDENT *pro tempore*. The Senator from Connecticut having spoken once, he is out of order unless the Senate grant him unanimous consent to proceed.

Mr. COCKRELL. I should like to hear the Senator's explanation. If I can yield my time now, I will yield it to the Senator from Connecticut.

The PRESIDENT *pro tempore*. The Senator from Missouri can yield his time to the Senator from Connecticut.

Mr. COCKRELL. I yield my time to the Senator from Connecticut.

Mr. HARRISON. I think all the facts are before the Senate. Both reports have been read.

The PRESIDENT *pro tempore*. No Senator can speak twice on the same subject unless the Senate unanimously agree to hear him.

Mr. McMILLAN. I think the Senate will give unanimous consent to hear the chairman of the Committee on Pensions.

The PRESIDENT *pro tempore*. Is there unanimous consent for the chairman of the Committee on Pensions to speak five minutes longer?

Mr. COCKRELL and others. Unanimous consent is given.

Mr. ALLISON and others. Yes, ten minutes.

The PRESIDENT *pro tempore*. Five minutes will be allowed.

Mr. PLATT. I sent for the papers, which I supposed were on file in this case, with the desire to read a letter written by this gentleman to a member of the House stating his own case, because I thought it would, perhaps, be as good a statement of the case as could be made; but that letter does not appear to be on file; at any rate the Secretary cannot find it, and therefore I cannot read it.

The Committee on Pensions can only do its duty. Every case that comes here reported adversely by the Committee on Pensions is said to be an exceptional and a meritorious case. Every case before the committee is put upon the ground that it is exceptional and meritorious. The result of increasing pensions in the exceptional and meritorious cases, as they are claimed to be, will simply be this: increase this pension from \$30 to \$50, and there is no argument, no reason, no justice in refusing to increase the pension in the case of the next application made in behalf of a colonel who has been gallant and who wants his pension increased from \$30 to \$50 when the general law does not allow it.

The simple result of this kind of work is going to be to pension at \$50 a month every colonel in the Army who is entitled to a pension. If the Senate think it wise to make exceptions every time that they are asked, when a person can show a little more disability perhaps than another person who is receiving a pension at the same amount, but for less disability than those who are receiving the higher pension, if they think it worth while to make those exceptional cases and to raise them to the rank, to the amount of those who are enjoying pensions for a greater disability, then the Committee on Pensions will have done its duty in the matter, and the responsibility will be upon the Senate.

I beg Senators to pause for one moment and think of this pension

business. The next appropriation for pensions is to be \$100,000,000 for the next fiscal year. The estimate for that appropriation was made when it was not contemplated to increase the force in the Pension Office so largely as to adjudicate pension claims faster than they have been heretofore granted. I undertake to say from my knowledge of the Pension Office that if the bill passes to increase the force in the Pension Office to adjudicate pensions, as I think it ought to pass, it will require from \$125,000,000 to \$150,000,000 to pay the pensions during the next year. Every increase of pension beyond what the law allows has a direct tendency to put up all pensions for the same rank.

Mr. MAXEY. I will ask the Senator from Connecticut if there was any evidence before the committee that this officer, Colonel Thomas, had received a pension for his wounds in the Mexican war?

Mr. PLATT. I do not think he ever applied for one. I do not think he claims that he suffered any disability whatever from the wounds received in the Mexican war. The fact that he was wounded in the Mexican war is mere sentiment. He went to the war—

Mr. MAXEY. The reason why I ask the question is because it appears in the House report that he was twice wounded in the Mexican war.

Mr. PLATT. Exactly; it appears in our report because we put it in, but it is mere sentiment. He never asked for a pension before the last war in which he was engaged, nor claimed that he was entitled to a pension for his wound in the Mexican war. He puts it in now as a make-weight simply. The entire disability results from his wound in the last war.

I was speaking of the tendency to increase the payment of pensions. I have spoken of the amount that was to be required under our present laws. What else have we got appealing to our sympathies here at this session? We have a bill to pension the survivors of the Mexican war; we have a bill to pension all who suffered in rebel prisons; we have a bill to increase the pension of those who lost an arm or a leg from \$18 to \$40 a month; and we have innumerable bills to increase the pensions of particular classes of soldiers who are disabled. Every one of the individuals of those classes appeals just as strongly to the sympathy of Congress as does this case.

For my part, I would not give a colonel or a brigadier-general or a major-general any more pension than I would give a private for the same disability. I think the difference of rating according to rank is all wrong. We do not expect, and we cannot expect, to give pensions which will pay the persons for the sufferings which they have endured, or support them according to their circumstances in life. That is an impossibility. I hope to see the time, after all the pension applications will have been settled that are in the Pension Office, when the whole rating will be readjusted and will stand on disability only, and the private soldier for the same disability shall receive as large a pension as shall the colonel, the brigadier-general, or the major-general.

Mr. HARRISON. May I have the consent of the Senate to say just a word?

The PRESIDENT *pro tempore*. Consent will be presumed unless objection be made.

Mr. HARRISON. I want to read just a paragraph or two from the report of the House committee:

At the battle of Nashville—

After referring to the fact that Colonel Thomas was twice wounded in the Mexican war, the report says:

At the battle of Nashville he was twice wounded, first by a cannon ball which passed through the shoulders of his horse while he was in the saddle, paralyzing his lower extremities, and afterward was wounded in the head by the explosion of a shell, which rendered him insensible. He partially recovered and was assigned to light duty, and was at length discharged from the Army on the 10th of August, 1865.

On the 18th of August, 1871, he was granted a pension of \$10 per month, but upon proof of continually increasing disabilities from the effect of said wounds his pension was increased first to \$15 a month and subsequently to \$30 a month.

It appears by the surgical examination of the Pension Office, dated September 13, 1877, that at that time the effect of both said wounds had produced total disability and that the brain trouble was still increasing, and your committee are satisfied that with the infirmities of advancing years the consequences of said wounds are becoming continually more and more distressing. This soldier, who has shed his blood for his country in two wars, now finds himself, in his old age, with the empty title of brigadier-general by brevet, disabled and helpless, and he now asks that for the remainder of his life his pension be increased to \$50 per month.

I cannot hope, Mr. President, to put his case more eloquently and concisely than is done in these paragraphs of the House report. I do not blame the Senator who represents the Pension Committee for his effort to sustain the report of the committee. I do not think, however, he ought to characterize the wounds this gallant old soldier received in the Mexican war as a mere matter of sentiment. Wounds and sentiment are two very different things, Mr. President. It may very well be that those wounds in the Mexican war were flesh wounds which did not result in disability, that the process of healing had been completed, but they involved exposure at the front, they testified both of them to the fact that this gallant man was with his wound at the place of danger; and they involved also suffering, perhaps for weeks and months in that hot climate where he received his wounds.

All of these cases that come to us here are exceptional cases. If they were not they would not come here at all; they would be adjusted under the ordinary operation of the pension law. I do not

think that the Pension Committee dealing with exceptional cases can formulate any rule that ought to bind them or the Senate. The question is, is this a case where the Congress of the United States, dealing with the special facts of the special case ought to grant this relief? If it is such a case we ought to do it.

Mr. President, are we to be frightened away from doing an act of justice to this old soldier by being told of the immense outlay that we are already involved in for pensions? We have settled that question at this session, and we are not terrified, I am sure, any of us; we are not in the least frightened by this parade of figures. We only ask that this money shall be paid to those who did service and actually incurred disability in defense of the flag, and when that question is raised we are not to be alarmed by the amount of money that may be involved in doing an act of justice to the soldiers of the country.

Mr. JACKSON. Mr. President, as a member of the Committee on Pensions I will state to the Senate that in our examination of the bill passed by the House the facts of the case were taken into special consideration. We looked at the House report carefully, and at the testimony on which it was based. In this case it did not appear—there was nothing in the papers to show—that the wounds received in the war with Mexico had been attended with any disability or inconvenience whatever. Those facts were stated merely to show what had been the services of this soldier, and the disabilities under which he is now laboring are due more to the infirmities of age than to the wounds received in the late war. That is shown from the papers and his own statement in the case.

Now, sir, if you grant an increase of pension in this case you will have to do it in the case of every colonel or lieutenant-colonel just as he advances in years and disabilities come upon him by reason of age. If we are to do that we ought to do it by general law, and not by special acts.

Mr. HARRISON. Let me ask, is it not proved that the pension examiners looking simply to the effect of the wounds received by this soldier have reported that as a result of the wounds he is totally disabled, without reference to age?

Mr. JACKSON. The House report indicates that fact, but our examination of the papers led us to believe that it was due as much to the infirmities of age as to the injuries received in the war.

Mr. PLATT. "Total disability" is a technical term. It does not mean disabled so that he cannot move or walk or work. It is simply a technical term.

The bill was reported to the Senate.

Mr. JACKSON. I move to indefinitely postpone the bill in conformity with the report of the Senate Committee on Pensions.

Mr. HARRISON. Had we not as well take the vote on the bill directly? That will test the sense of the Senate.

Mr. JACKSON. We may as well take it in conformity with the report.

Mr. HARRISON. I have no objection.

The PRESIDENT *pro tempore*. It is moved that the bill be indefinitely postponed.

Mr. HARRISON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 20; as follows:

YEAS—26.			
Allison,	Coke,	Jackson,	Pugh,
Bayard,	Davis of W. Va.,	Johnston,	Ransom,
Beck,	Fair,	Jones,	Slater,
Brown,	Farley,	Maxey,	Vance,
Campen,	Garland,	Morgan,	Vest.
Cameron of Wis.,	Gorman,	Morrill,	
Cockrell,	Harris,	Platt,	
NAYS—20.			
Call,	Frye,	Logan,	Rollins,
Chilcote,	Hale,	McBill,	Saunders,
Conger,	Harrison,	Mahone,	Sawyer,
Davis of Illinois,	Jones of Florida,	Miller of Cal.,	Sherman,
Dawes,	Lapham,	Miller of N. Y.,	Windom.
ABSENT—30.			
Aldrich,	Groome,	Jones of Nevada,	Saulsbury,
Anthony,	Grover,	Kellogg,	Sewell,
Blair,	Hampton,	Lamar,	Van Wyck,
Butler,	Hawley,	McMillan,	Voorhees,
Cameron of Pa.,	Hill of Colorado,	McPherson,	Walker,
Edmonds,	Hill of Georgia,	Mitchell,	Williams.
Ferry,	Hoar,	Pendleton,	
George,	Ingalls,	Plumb,	

So the bill was postponed indefinitely.

Mr. JONAS subsequently said: I should like to enter a motion to reconsider the vote by which the Senate indefinitely postponed House bill No. 2012.

Mr. DAVIS, of West Virginia. What is it?

Mr. JONAS. I only ask to enter the motion.

Mr. DAVIS, of West Virginia. What is it about?

Mr. JONAS. To increase the pension of General D. C. Thomas. I simply enter the motion to reconsider.

The PRESIDENT *pro tempore*. The motion will be entered.

#### THE GENERAL LAND OFFICE.

The bill (S. No. 1619) to increase the salary of the Commissioner of the General Land Office, and to create the offices of assistant commissioner of the General Land Office and inspectors of surveyors—

general and district land-offices, was announced as next in order on the Calendar.

Mr. DAVIS, of West Virginia. That is a very important bill. Is there a report with it? I notice that it increases the compensation of several officers and also creates several new offices. It is a matter of considerable importance, and such matters have generally been referred to or come from the Appropriations Committee. I should like to inquire from what committee the bill is reported?

The PRESIDENT *pro tempore*. The Committee on Public Lands. The Senator from Alabama [Mr. MORGAN] reported the bill.

Mr. MORGAN. The Senate at the last special session and at the special session before that referred to the Committee on Public Lands to consider a general investigation of the Land Office, and authorized them to send for persons and papers. That committee, through the action of a sub-committee, made a very careful investigation into every division of the General Land Office. The report was made to the Senate and has been printed, and has been on the desks of Senators for months. This bill is predicated on that report and also on the recommendations of the Secretary of the Interior in all its provisions. In fact, the bill was drawn in the office of the Secretary of the Interior. The object of it is to change the law so that hereafter the Committee on Appropriations will have no trouble in providing what is considered by this committee and by the Secretary of the Interior to be the proper compensation for the officers of the Land Bureau, and also a proper addition to the number of clerks of the bureau.

The condition of the General Land Office requires the close attention of Congress. We have in our keeping a vast public trust, covering many millions of acres of land as yet undisposed of. We have questions that are running back in consideration as far as 1820, and even further back than that. We have 150,000 undisposed of cases in the General Land Office, in which are included the homes of the people. There is perhaps no subject that requires the attention of Congress more particularly and more thoroughly than this. The business of the General Land Office has fallen behind because of the physical impossibility of deciding the cases that have been brought there by appeal from the local land offices.

I will not undertake to consume the time of the Senate now by going over this vast field. Very numerous questions have arisen out of the legislation in reference to the public lands. There is perhaps no country in the world where there is a more complex system of legislation than that which controls the disposal of the public domain in the United States at this time. Questions of the greatest significance are arising continually, and men are deciding causes on the ascertainment of facts involving questions of title in litigated cases in the General Land Office who are paid from \$1,200 to \$1,800 a year—men without professional experience. Some of these cases involve as much as a million of dollars in value; not a few of them require a record of a thousand pages. These cases are decided virtually without any supervision, because of the want of force in that office to give supervision. Sometimes cases are carried by appeal to the Secretary of the Interior; sometimes the opinion of the Attorney-General is asked; sometimes they stop with the Commissioner of the General Land Office and sometimes with his chief clerk, and sometimes with the law officer of the bureau. Oftener than otherwise the cases are finally disposed of by the clerk who makes the examination of the record and by the chief law officer of the Interior Department. Now, I do affirm that there never were such important cases drawn into litigation, in respect to which the questions are all judicial, that were decided with so little opportunity for a full investigation and with so little opportunity for supervision by a higher officer.

It is my duty to say here, though, that the investigation we have made in respect to the capacity of the clerks who have conducted this business in the various divisions—I believe there are fifteen or seventeen divisions of the General Land Office—shows very remarkable results; and their devotion to their business, when we come to consider the meager pay they get, scarcely a sufficient support for a decent man, is something that is extraordinary—

Mr. JONES, of Florida. What is the present salary of the Commissioner?

Mr. MORGAN. Three thousand five hundred dollars. The Commissioner of the General Land Office—

Mr. BECK. How much have we increased the clerical force of the General Land Office in the last two years?

Mr. MORGAN. It is true there has been an increase in the force of that office within the last two years; the report shows, I think, about forty-eight clerks.

Mr. JONES, of Florida. What is the question before the Senate? The PRESIDENT *pro tempore*. The question is on the bill. The bill is before the Senate.

Mr. MORGAN. Mr. President—  
The PRESIDENT *pro tempore*. The Chair informs the Senator from Alabama that he has been speaking five minutes.

Mr. DAVIS, of West Virginia. I ask the Senator from Alabama, in view of the importance of this bill and its proposed increase of force in the Land Bureau, as well as increasing the pay beyond that of other clerks in the Indian Office, the Patent Office, and many other bureaus of the same Department, whether it had not better go over, instead of being discussed now under the five-minute rule?

Mr. MORGAN. If any Senator desires further time for an examination of the bill, I have no objection to its going over, but I do earnestly insist that the Senate ought to act upon the subject at an early day. The law ought to be amended, unquestionably.

Mr. DAVIS, of West Virginia. I think the bill had better go over without prejudice.

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

JOSEPH R. SHANNON.

The bill (S. No. 74) to provide for the payment of the claim of Joseph R. Shannon, of Louisiana, was considered as in Committee of the Whole. It provides for the payment to Joseph R. Shannon, formerly of the State of Louisiana, for the steamboat A. W. Quarrier, impressed into the service of the United States in the year 1862, and destroyed in such service, of \$48,000.

Mr. JONAS. I ask for the reading of the report in that case.

Mr. CAMERON, of Wisconsin. There are two reports in that case made during the present session. The first report is No. 83. Let that be read.

The Principal Legislative Clerk read the following report, submitted by Mr. TELLER January 26:

The Committee on Claims, to whom was referred the bill (S. 74) for the relief of Joseph R. Shannon, having considered the same, make the following report:

The claimant, Joseph R. Shannon, petitions Congress to pay him the value of a steamboat (A. W. Quarrier) impressed by General Butler while in command of Federal troops at New Orleans, in the spring of 1862. There is some conflict of testimony as to the exact time of the impressment, but not more than might be expected where witnesses rely on their recollection of the date. The claimant was a citizen of Missouri, and at all times loyal to the Government, but was, at the time of the capture of New Orleans, in the vicinity of that city with the boat and other property of like character.

The A. W. Quarrier was, before the war, used as a passenger boat, running between White River and the city of New Orleans, but at the time of the commencement of the war was lying at the wharf in New Orleans. Subsequently she plied between Red River and New Orleans. The claimant also owned the Burton and Sallie Robinson, which were both seized by the confederate government and subsequently taken by the United States forces. The Burton was snagged and sunk while being used by the Government and was subsequently paid for by the United States. The Sallie Robinson was recovered from the United States by claimant by proceedings in the court at New Orleans.

It appears from the evidence that the claimant was the owner of the boat by purchase, and had been such owner for several years. The claimant does not produce any written evidence of title; but the proof is entirely satisfactory (and was so admitted by the Treasury Department) of the ownership of the boat by claimant. (The reason given for non-production of title papers is that they were destroyed during the war.)

The facts may be briefly stated to be as follows: in the latter part of May or June, 1862, General Butler impressed the boat and sent it up the river under a flag of truce. One great object of the expedition appears to have been to obtain a large amount of gold taken from the New Orleans banks and secreted within the lines of the confederacy. The agent of the banks, whose affidavit is on file, went on the boat to Alexandria, and returned by other means with the gold; the captain and crew were seized and imprisoned as spies; the boat taken by the confederate government and dismantled; the machinery taken to Texas and used by the Davis and Marion County Iron Works, then controlled by the confederate authorities. Afterward these works fell into the hands of the Government of the United States. Shannon made an effort to recover the machinery, which was then in the hands of one Hughes, who appears to have held it as an agent of the Government. In this effort Shannon was unsuccessful, because Hughes proved that it was the property of the United States by capture from the confederate government. Then Shannon attempted to secure from the Government the value of the boat. After much delay, the Treasury Department decided that the owner was loyal, and that the boat had been impressed, as claimed by claimant, but that the boat was not in the insurrectionary district under the proper authority indicated by the joint resolution of December 23, 1869, nor in conformity with the law of the United States, and therefore rejected his claim as not cognizable in that department.

It is difficult to say just what is meant by this. Mr. Shannon had established his loyalty and the ownership of the boat to the satisfaction of the Treasury Department. The boat had not been seized by the Government on account of misconduct of claimant, but because of the pressing necessity of the Government at that time. It was the property of a loyal citizen within the United States at the time of the breaking out of hostilities. The boat remained there through no fault of claimant, but from necessity. When the Government's authority was once more established over that portion of Louisiana, the claimant's rights were the same that they would have been if he had gone from Saint Louis to New Orleans after the capture of that city.

General Butler had authority to impress the boat if in his judgment it was a military necessity, and the liability of the Government is the same whether it was wisely or foolishly done. (Court of Claims, vol. 2, p. 95; vol. 5, p. 542; vol. 7, p. 224; 13 Wallace, 336.)

The claim was cognizable by the Southern claims commission, which was created by act of March 3, 1871, to continue for two years. It thus appears that the claimant might at any time between the 3d day of March, 1871, and the 3d day of March, 1873, have had his claim examined by said commission, and if he had done so would doubtless, on the facts before the committee, have received the value of his boat; but the records of the commission disclose the fact that he did not so apply. We must now consider the circumstances of the case, and determine whether the claimant has a valid excuse for such neglect as to entitle him to now call on Congress by special action to recompense him for the damage he sustained by such impressment of his boat. It appears that the confederate authorities dismantled and destroyed the hull of the boat, but took the machinery, which was very valuable, to Texas, where it was captured by the Government and put in the hands of one Reese Hughes. As soon as the United States courts were opened for business in Texas, the claimant brought suit against Hughes for the recovery of the machinery of the boat. On the trial of the cause, Hughes proved that he held the property for the United States, and the claimant was defeated. Thereupon Shannon petitioned the War Department for the recovery of the engine, boiler, and other machinery then in possession of the United States. On the 13th day of January, 1871, Quartermaster J. D. Bingham referred the matter to M. C. Meigs, Quartermaster-General, and on the same date notified Mr. Shannon as follows:

JANUARY 13, 1871.

Mr. JOSEPH R. SHANNON, Washington, D. C.:

Your application for recovery of certain machinery alleged to have been captured by the United States forces and now improperly held by Reese Hughes, of Davis County, Texas, has been referred to the Quartermaster-General, who de-

cides as follows, namely: this case is one to be settled under the laws relating to captured and abandoned property, and the Quartermaster's Department has no power in the premises. Application should be made to the Treasury Department by claimant.

By order of the Quartermaster-General.  
Very respectfully, your obedient servant,

J. D. BINGHAM,  
Quartermaster, U. S. A.

General Meigs indorsed on the paper submitting the case to him the following: This case is one to be settled apparently under the law relating to captured and abandoned property, and the Quartermaster's Department has no power in the premises. Application should be made to the Treasury Department by the claimant.

M. C. MEIGS,  
Quartermaster-General.

JANUARY 13, 1871.

At this time the Southern claims commission was not in existence, and claimant could not maintain his case in the Court of Claims, and was without redress, unless it was in the Treasury Department. (See act July 4, 1864, volume 15, Statutes at Large, page 381.)

Acting under the advice of Quartermaster-General Meigs, Mr. Shannon applied to the Treasury Department for relief under act of March 3, 1849. This application the Treasury Department entertained, and Mr. Shannon furnished evidence as to his loyalty, impressment and loss of his boat, as well as the value thereof. The whole subject was carefully examined by the Auditor, and on the 6th day of April, 1874, he decided that the boat had been impressed as Shannon alleged; that it had been destroyed by the confederate authorities while in the military service of the Government; that the value of the boat was \$48,333.32; that claimant was a loyal citizen, but that the Department could not allow the claim. It is not at all strange that after the declaration of the Quartermaster-General, that the Treasury Department could grant the relief sought, and as the Treasury Department entertained jurisdiction of the case, that Shannon should rest under the belief that he had his case before the proper tribunal. He had gone there before the creation of the Southern claims commission, and he had every reason to suppose that his case would be disposed of in that Department if his evidence was satisfactory, and when the case was reported adversely by the Auditor it was too late to go before the Southern claims commission. The report of the Third Auditor, disallowing Mr. Shannon's claim, was approved by the Comptroller, and subsequently Mr. Shannon applied for a re-examination of the case, which was refused.

The case presented is a strong one as to all the facts alleged by Shannon. He lost his boat, and has for many years sought to recover the value thereof. At the time he went to the Treasury Department for relief he could go nowhere else; if relief could not be had there he was without redress except by an appeal to Congress. There was every reason to believe that under the second and third sections of the act of March 3, 1849, (vol. 9, Statutes at Large, p. 415,) the Third Auditor had jurisdiction of this case, and it is not strange that Shannon did rest under that belief until too late to go into the Southern claims commission.

The claimant will not fault on his part lost his boat, which he had not forfeited to the Government, and he is entitled to the value thereof. He brought the matter into the courts to obtain, if possible, what was left of the machinery of the boat, but was defeated because the Government claimed title to it as captured confederate property. He then resorted to the Treasury Department, but was informed that while the proof was satisfactory as to his loyalty, ownership of boat, &c., he did not fall within the resolution of 1869, nor the amendment of 1871, and therefore he could not have redress in that Department, but must go to Congress, which he did some three years since. It is difficult to determine what the value of the boat so impressed was, and the evidence is conflicting on that part. It is doubtless conflicting because of the fact that the boat at the time of its purchase by the claimant was not in first-class condition, and was subsequently repaired at great expense. Some of the witnesses may speak of the boat as it was before the repairs and some after the repairs.

All of the witnesses, save one, place the value of the boat at not less than \$50,000, and several of them much higher than that. The Third Auditor, after a careful examination of the evidence and the value of boats of like character and dimensions paid for by the Government, fixes the value of the boat at the time of the impressment at a little more than \$48,000. As the value of the boat must be ascertained by the testimony taken at that time, and from the testimony the Auditor would have been justified in finding the value much greater than he did, and as but one witness out of eight testifies to a value below \$50,000, your committee think the amount found by the Auditor is not excessive, and therefore recommend that \$48,000 be paid to Mr. Shannon, and the passage of the bill, which is a copy of that which passed the Senate at the last session, for Mr. Shannon's relief.

Mr. COCKRELL. After this bill was reported from the Committee on Claims there was some intimation that there was some question about the loyalty of the claimant and the ownership of the vessel. I wrote a letter to the Secretary of War for information upon that question, to know whether there was anything in the rebel archives which would give any light or information upon the question, anything that had not been before the committee. I received a communication from the Secretary of War, which is printed as Senate Miscellaneous Document No. 60, Forty-seventh Congress, first session, transmitting a report on the claim of Joseph R. Shannon. I have not had time to examine this report and compare it with the testimony in the case. From what is on file it seems the case has been pending for some time. There is a report of an officer of the Treasury Department, a great deal of which is more commentary than anything else. This very claim was before the Second Comptroller of the Treasury Department, and he passed upon it. Now, I desire, simply for the information of the Senate, to show what the Second Comptroller says, to have read a part of the report of the Second Comptroller. I ask the Secretary to read what I have marked on pages 9 and 10 of this Miscellaneous Document.

The Principal Legislative Clerk read as follows:

TITLE OF SHANNON.

The difficulty presented at the outset in the investigation of this claim is to discover who may legally prosecute it against the United States. This objection was stated in detail in the report of this office of July 11, 1874. (Vide act of July 29, 1850, (9 Stat., 440,) as to transfer and title, and *Weston vs. Penniman*, 1 Mason, 317.)

The ownership in J. R. Shannon is not proved. Title is claimed under one Schiller, and, being in dispute, the burden of proof is on the claimant. No bill of sale, memorandum of agreement of sale, or any evidence whatever from Schiller is produced. In short, excepting the solitary statement of Shannon explaining his title, the evidence is secondary and hearsay. This office procured the enrollment of the A. W. Quarrier and the bills of sale of the steamer, but these show

the title and transfer before Schiller becomes a party in interest. There is no proof on record that Schiller ever owned, or had in his possession, the steamer A. W. Quarrier. It has already been pointed out how the title to ships (and under this term steamboats are included) as against third parties must be proved. (Vide report of Comptroller of July 11, 1874.)

When the enrollment above mentioned, with the several recorded bills of sale, were produced, the claimant answered that another and a different boat was here described than the A. W. Quarrier owned by him. Beyond this allegation no proof in support of this allegation was presented, nor has there been since. It would be very surprising, indeed, and contrary to all precedent, not to mention the laws of the United States, that a steamboat of several hundred tons burden should be built and owned by citizens of the United States to navigate the Mississippi River and its tributaries, should elude the inspectors of steamboats, escape enrollment, and no evidence of these facts should be preserved. And yet this is what the claimant in effect would have the Government believe when he alleges that there were two steamboats by the name of the A. W. Quarrier, but produces proof of the existence of but one of them.

Apart from the record-proof above mentioned of the steamer A. W. Quarrier, it is shown by the witnesses summoned by the United States, as already described, that but one steamboat named the A. W. Quarrier navigated the Mississippi and Red Rivers.

The evident purpose of the claimant in alleging that there was another boat named the A. W. Quarrier was to establish the fact, as shown by the enrollment and bills of sale of the real A. W. Quarrier, that this steamboat was of much greater value than the latter; for, as shown by the enrollment and bills of sale of the A. W. Quarrier, the sum of \$8,000 was the price paid at the time of the last recorded transfer, January 8, 1861, whereas Shannon swears that he bought at New Orleans a steamboat named the A. W. Quarrier of Edward Schiller, December 22, 1860, for the sum of \$26,000. [NOTE.—But Shannon, on the 7th of June, 1869, swears that he bought the Quarrier from Mr. Redman [Redmond] in Arkansas in 1861, vide suit No. 960, *Joseph R. Shannon vs. Reese Hughes*, page 42 of record of suit.] Not only does Shannon swear that he bought the boat of Schiller, but he files what purports to be a copy of the bill of sale to him from Schiller, with a copy of the alleged receipt of the purchase-money. To these copies he makes oath. Now, the records of the custom-house at New Orleans show that the bill of sale of the A. W. Quarrier, transferred, as above mentioned, for \$8,000, was recorded on the 27th of March, 1862. It had previously been recorded in the office of the clerk of the circuit court for the County of White, in the State of Arkansas, on the 9th of January, 1861, and again on the 14th of January, 1861, in the office of the clerk of the circuit court for the county of Monroe, in the above-named State. It is reasonable to suppose that some receipt or voucher of the payment of so large a sum of money would, in the absence of the bill of sale, be produced by the claimant in support of the truth of his allegation. This he has not done, nor does he offer any explanation of this singular omission in the transaction of commercial business in the city of New Orleans.

The claimant further alleges that after the purchase by him, as above mentioned, of the steamer A. W. Quarrier, he repaired the same at very great expense, and he claims that the value of the steamer, after being thus repaired, was upward of \$52,000. It is the rule of the Government, in such a case, to require the production of the bills of expenditures incurred, and properly vouched for; but no bills are produced, the nature of the repairs is not explained, and the evidence of the ship-carpenters and other artisans employed in making these repairs is not filed. The claimant does not say whether he put the repairs on the A. W. Quarrier by contracting with another to do the work and furnish the materials, or whether he directly employed the workmen and provided the materials.

Beyond the simple statement of the claimant and James Bell, of the fact of making repairs, there is no evidence whatever that repairs were made. It is true that Hasam, on the 20th of February, 1874, swears that he was well acquainted with the steamer A. W. Quarrier, and that, having much practical experience in passing upon the value of ships and Mississippi steamers, he appraises the A. W. Quarrier at \$60,000. But the objection still remains: we have no proof of the character usually required, and easily to be obtained in a commercial city, that the claimant, Shannon, made the repairs as alleged. What interest Shannon may have had in this steamer as agent, broker, or charterer, he fails to present any proof of title as owner; nay, the bills of sale mentioned above furnish incontrovertible evidence that, from the 8th of January, 1861, up to the 27th of March, 1862, P. P. Redmond was the owner. How much longer he continued to be the legal owner it does not appear; but his title evidently did not cease at that time. There is no record produced of a transfer subsequent to March 27; and the collector of the port of New Orleans states that the only record of sale of the A. W. Quarrier, on file in his office, is the one above described. Was there another steamboat named the A. W. Quarrier? If so, claimant fails to prove the fact.

This theory, which he advances in order to support his title, is not confirmed by a single fact, and must for that reason be regarded as untenable.

That Shannon was in some way interested in the voyage of the steamer A. W. Quarrier to the Red River in June, 1862, may be fully believed on the testimony of several of the witnesses; but that he was the owner of the boat finds no corroborating proof of his own allegation. And this fact must be decided, without doubt, I think, adversely to him.

Here was a steamer, valued by the claimant and by Hasam at \$60,000, purchased of one Edward Schiller on the 22d of December, 1860, for the sum of \$26,000, and subsequently, it is alleged, thoroughly repaired at an expense of more than \$20,000, yet he swore, on the 7th of June, 1869, that he bought the boat of Mr. Redman, [Redmond], of Arkansas, in 1861. But of proof, even of a secondary character, of this large expenditure of money, there is none. Did Shannon pay Schiller for the Quarrier? If so, was payment by check on some bank where vendee had money deposited to his credit, or was payment made cash in hand to Schiller? If so, then a receipt, certainly, would have been taken. But nothing is produced in the nature of a receipt, check, &c., and there is no explanation other than as stated of the fact of payment.

Upon the hypothesis set up by Shannon why has not Schiller a better title? Shannon explains the reason why he has not filed the bills of sale showing his title, and connecting it with the titles of Schiller and F. P. Redmond and Riley Jones. Shannon, says James Bell, the clerk of the steamer A. W. Quarrier, bought her of Edward Schiller, and Schiller of F. P. Redmond and Riley Jones. According to his best recollection, Jones owned some small interest in the boat and Redmond the balance. He distinctly remembers that there were three bills of sale: one from Redmond to Jones, Redmond and Jones to Schiller, and from Schiller to Joseph R. Shannon. Does not know whether they were registered. They were filed, with other papers, on board the steamer, and were lost or destroyed, as he supposes, when the rebels seized her. (Affidavit of James Bell, sworn to March 28, 1874.)

The objection to this oral evidence, and the reason why it cannot be substituted for the bills of sale alleged to have been lost, are obvious: the existence of these writings logically may be disputed.

Why is not the testimony of Redmond and Jones and Schiller produced? It would be very strange if the only proof of the several transfers by these parties was oral, and there was no writing or memoranda of the transaction, even of a secondary character.

But of oral evidence on the part of all or either one of these part owners of the steamer A. W. Quarrier there is nothing, and no writing whatever is filed. Now, the only recorded bill of sale of this steamer of which there is any evidence, from January 8, 1861, to March 27, 1862, is that of J. H. Duval and D. M. Rogers, to P.

P. Redmond, and until Shannon presents some proof of payment of the amount alleged by him to have been paid for the steamer, the testimony of James Bell must, I think, be regarded as irrelevant. Shannon's title must be established by proof of a different character from affidavits like his own and Bell's, especially when Shannon himself swears that he bought the Quarrier of Redman, in 1861, and subsequently swears that he bought the boat of Schiller.

Mr. CAMERON, of Wisconsin. This bill was referred to the Committee on Claims early in the session. It was assigned by that committee to the present Secretary of the Interior, who was then a member of the committee, and examined by him. He submitted a report to the committee, which report was adopted by the committee, report No. 83, which has been read by the Clerk. After that the Senator from Missouri obtained an intimation that there was some evidence in the War Department which had not been submitted to the committee. Upon making that suggestion to Mr. Teller, the bill was recommitted to the committee, and the evidence obtained by the Senator from Missouri was referred to the committee, and the whole case was again thoroughly and exhaustively examined by the present Secretary of the Interior. He made another report, and reviewed the testimony which was submitted.

Mr. HOAR. I suggest to my friend to let that other report be printed in the RECORD. It can hardly be necessary to read it.

Mr. CAMERON, of Wisconsin. Very well.

The report is as follows:

The Committee on Claims, to whom was referred the bill (S. No. 74) for the relief of Joseph R. Shannon, having examined the same, reported it to the Senate with a recommendation that it pass. Subsequently it was alleged that important evidence was on file in the War Department that showed Shannon was not entitled to the relief sought; thereupon the committee asked to have the bill recommitted, which was accordingly done. A call for the important evidence from the War Department brought a report from that Department, signed "Thomas H. Bradley, brevet captain, United States Army, examiner of State claims," dated February 19, 1882.

The report is mainly made up of extracts from the report of the Second Comptroller, reviewing the report of the Third Auditor on Shannon's application to the Treasury Department to be paid for the steamer A. W. Quarrier.

Filed with the said report is the report of the Comptroller above referred to, with certain exhibits said to be of importance in the case, but which appear to be vouchers for services rendered by certain parties to the confederate government, in connection with the services of the A. W. Quarrier after it was taken by the confederate government, and, of course, subsequent to the impressment by the order of General Butler.

Bradley in argument alleges that Shannon was a lieutenant in the State militia in 1861, but we have nothing but Bradley's statement on that point. Shannon swears he was not in the service of the State militia; but if he was, it is not important in the consideration of this case. Your committee consider Mr. Shannon's loyalty proved beyond all doubt.

The Southern claims commission, after a rigid examination of Shannon and witnesses of character and well-known loyalty, decided that he was loyal. The evidence on file in this case appears to be conclusive on that point. Mr. Bradley attacks the title of Shannon to the steamer A. W. Quarrier, and, to sustain himself, refers to a letter written by one Harris from New Orleans in 1880, who alleges that Shannon was not the owner of the A. W. Quarrier. He also cites a letter received from an engineer officer of the United States Army in 1881, who says:

"I am informed that in 1860 the steamer was offered for insurance, was inspected in due course by the underwriters' inspectors, and then valued at \$9,500. Soon after she was sold for \$8,000 to parties living in Memphis, and was then employed in navigating the White and Arkansas rivers. It is generally understood among river men here that after being in the service of the confederacy she was finally destroyed or dismantled at Shreveport, on Red River, and her engines and machinery used in a mill."

This kind of evidence cannot be considered by the committee, and is not worthy of consideration. We are not even told who this engineer is, nor where he resides, and such statements ought not to be found in a report from the War Department any more than the argument of the examiner; both are out of place in response to a call for information.

Again, it is alleged by Captain Bradley that Captain Shannon was in Richmond in 1863 seeking an allowance of, and obtaining an order for, \$75,000 from the confederate government in payment for the steamer Golden Age. There is no evidence that the claimant was ever called Captain Shannon, or that he ever owned the Golden Age. Shannon denies that he was in Richmond during the year 1863, or that he ever sold the Golden Age or any other boat to the confederate government, and there is no evidence that he was in Richmond, or that he sold the boat as alleged.

The Comptroller, in reviewing the finding of the Auditor, alleges that the first heard of Shannon's claim for this boat was in January, 1874. The War Department was considering his claim, as shown by the evidence furnished the committee, as early as January, 1871.

January 13, 1871.

Your application for recovery of certain machinery alleged to have been captured by the United States forces and now improperly held by Reese Hughes, of Davis County, Texas, has been referred to the Quartermaster-General, who decides as follows, namely: this case is one to be settled under the laws relating to captured and abandoned property, and the Quartermaster's Department has no power in the premises. Application should be made to the Treasury Department by claimant.

By order of the Quartermaster-General.

Very respectfully, your obedient servant,

J. D. BINGHAM,  
Quartermaster, United States Army.

Mr. JOSEPH R. SHANNON,  
Washington, District of Columbia.

General Meigs indorsed on the paper submitting the case to him the following:

This case is one to be settled apparently under the law relating to captured and abandoned property, and the Quartermaster's Department has no power in the premises. Application should be made to the Treasury Department by the claimant.

M. C. MEIGS,  
Quartermaster-General.

JANUARY 13, 1871.

During this time the Southern claims commission might have taken cognizance of this claim, but Mr. Shannon had been told, as can be seen by the above, that his remedy was in the Treasury Department.

That Mr. Shannon was loyal the committee consider satisfactorily proved; but if he was not, his boat not having been seized by the Government under the confiscation acts nor as booty of war, he is entitled to be paid therefor.

General Butler declared on his advancement into New Orleans that "all the

rights of property of whatever kind will be held inviolable, subject only to the laws of the United States."

If Shannon had been disloyal before that proclamation his boat might have been considered enemy's property at the time of the capture of the city of New Orleans, but unless after such capture he was guilty of some disloyal act his property was not liable to seizure. The Supreme Court, in the case of the Venice, held: "It results from this reasoning that the Venice and her cargo, though undoubtedly enemy's property at the time she was anchored in Lake Pontchartrain, cannot be regarded as remaining such after the 6th of May; for it is not asserted that any breach of blockade was ever thought of by the claimant, or that he was guilty of any actual hostility against the national Government."

It is hardly necessary to add that nothing in this opinion touches the liability of persons for crimes, or of property to seizure and condemnation under any act of Congress." (See Venice, page 279, 2 Wallace.)

This doctrine is fully sustained by the Supreme Court in the case of Planters' Bank vs. The Union Bank, 16 Wallace, page 483.

The Government impressed the steamer A. W. Quarrier, admitted to have been found in the possession of claimant, who entered his protest then and there, as the owner thereof, against such impressment. The claimant appears to have followed the remnant of his property into Texas, claiming it as his own, coming to the War Department in 1871, and asserting his ownership there, and ever since no one else has ever asserted a claim to it, or any interest in it, for a period of twenty years, until one Mr. Harris writes a letter that, under certain circumstances, parties may desire to set up a claim to the same as the property of some one else.

Your committee, having fully considered the evidence in the case, reaffirm their former report as to the following facts:

First. Shannon was a loyal man.

Second. The steamer A. W. Quarrier was the property of Joseph R. Shannon, claimant, and was of the value of \$48,000.

Third. That such impressment was by the Government of the United States, and for its benefit, and resulted in the loss of the boat to claimant.

Fourth. That claimant is entitled to the pay therefor, and your committee therefore recommend the passage of the bill for his relief, heretofore reported to the Senate.

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

#### LANDS IN COLORADO.

The next bill on the Calendar was the bill (H. R. No. 5655) relating to certain lands in Colorado within the reservation lately occupied by the Uncompahgre and White River Ute Indians.

Mr. DAWES. That is a House bill which has never been referred to one of our committees. It is a matter in which the Senator from Colorado, not now in his seat, [Mr. HILL,] is especially interested, and I ask that the bill be passed over without prejudice.

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

#### TRIAL OF CHARLES J. GUILTEAU.

The joint resolution (S. No. 34) to provide for the publication of the official report of the trial of the murderer of President Garfield was announced as next in order.

The amendment of the Committee on Printing was read.

Mr. MORGAN. I think we had better wait until the appeal referred to in the amendment is disposed of by the court before we print the report of the trial. The case is pending before the supreme court of the District in banc.

The PRESIDENT *pro tempore*. The joint resolution can be passed over without prejudice.

Mr. MORGAN. Very well.

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

#### GUSTAVE ELSBERG.

The bill (S. No. 1435) for the relief of Albert Elsberg, administrator of Gustave Elsberg, deceased, was considered as in Committee of the Whole.

The bill was reported from the Committee on Finance, with an amendment to strike out in lines 24 and 25 the words "there are reasonable grounds to believe that;" so as to make the bill read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to examine into the claim of Albert Elsberg, administrator of Gustave Elsberg, deceased, late of Santa Fe, New Mexico, to be paid the value, with the accrued interest on June 21, 1873, the date when they were called for redemption, and when interest was stopped, of the following-described coupon-bonds, which were subscribed and paid for by said Gustave Elsberg, and were stolen from him on the 14th day of June, 1865, and are believed to have been destroyed, namely: United States 5-20 6 per cent. bonds numbered 22515, 22516, 22517, 22518, 22519, 22520, 22521, and 22522, issued under the act approved February 25, 1862, second series, and of the value of \$500 each; and if the Secretary of the Treasury, after such examination, is satisfied that the said bonds were lost as aforesaid, and is also satisfied that they have not since been presented to and paid by the Government, he shall cause the value of the same, as aforesaid, to be paid to the said Albert Elsberg, administrator of Gustave Elsberg, deceased, late of Santa Fe, New Mexico: *Provided*, That the said administrator of the said Gustave Elsberg shall execute and file with the Secretary of the Treasury a bond of indemnity, with at least two good and sufficient sureties, citizens of the United States, in a penalty double the amount provided to be paid hereunder, the sufficiency of which shall be properly certified by a court or courts of competent jurisdiction, guaranteeing the United States against any future demand or liability on account of the said bonds and coupons, or either of them: *And provided further*, That the said administrator of the estate of the said Gustave Elsberg shall also file with the Secretary of the Treasury a satisfactory affidavit that the said bonds and coupons, or any part thereof, have not, by the said Gustave Elsberg in his lifetime, nor by his said administrator since, been sold, transferred, assigned, or otherwise in any way disposed of.

The amendment was agreed to.

Mr. CONGER. May I inquire of the Senator who reports the bill whether this provides for an indemnity bond?

The PRESIDENT *pro tempore*. The bill provides for that.

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

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

## BILLS PASSED OVER.

The next bill on the Calendar was the bill (S. No. 104) to repeal so much of section 8 of the act of June 18, 1878, as relates to the payment for fuel by officers of the Army.

Mr. PLATT. Nobody representing the Military Committee appears to be in the Senate. I think the bill had better be passed over without prejudice until its members come in.

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

The next bill on the Calendar was the bill (S. No. 550) to incorporate the Maritime Canal Company of Nicaragua.

Mr. MILLER, of California. Let that be passed over without prejudice.

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

## MOSES R. RUSSELL.

The bill (H. R. No. 2351) for the relief of Moses R. Russell was considered as in Committee of the Whole. It provides for the payment to Moses R. Russell, of Carrollton, Carroll County, Georgia, of \$300, paid by him September 11, 1868, as a distiller of brandy from apples and peaches exclusively, for the period of nine months ending April, 30, 1879, under section 59 of the act of July 20, 1868, when by decision numbered one hundred and seventy-three of the Treasury Department, made pursuant to section 2 of that act, such distillers were exempted from the payment of a special tax.

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

## ELIZABETH DAVIS.

The bill (H. R. No. 315) granting a pension to Elizabeth Davis was announced as next in order on the Calendar.

The PRESIDENT *pro tempore*. This bill was reported adversely by the Senator from Oregon [Mr. SLATER] from the Committee on Pensions, and will not be taken up unless requested. The bill will be passed over.

## DAVID STURROCK.

The next bill on the Calendar was the bill (S. No. 1369) authorizing the Secretary of the Interior to pay the pension allowed Jane Sturrock, deceased, mother of William D. Sturrock, deceased, late of the One hundred and eighty-seventh Regiment Pennsylvania Volunteer Infantry, to David Sturrock, the dependent invalid father of said soldier.

The PRESIDENT *pro tempore*. This is an adverse report, and the bill will be passed over.

## POWHATTAN B. SHORT.

The bill (S. No. 906) granting a pension to Powhattan B. Short was announced as next in order on the Calendar.

The PRESIDENT *pro tempore*. This is an adverse report, and the bill will be passed over.

## NAVY LONGEVITY PAY.

The bill (S. No. 625) to amend section 1556 of the Revised Statutes, giving longevity pay to certain officers of the Navy, was considered as in Committee of the Whole.

Mr. ROLLINS. There is a report accompanying the bill which explains the case.

The PRESIDENT *pro tempore*. The bill is reported from the Committee on Naval Affairs with an amendment, which will be read.

The ACTING SECRETARY. The amendment is, in line 3, after the word "engineers," to strike out "passed assistant surgeons and passed assistant paymasters;" so as to read:

That the passed assistant engineers of the Navy shall receive during the third five years after the date from which they commenced to receive pay as passed (first) assistants, when at sea, \$2,450.

Mr. McMILLAN. Will the Senator from New Hampshire explain the necessity of the bill?

Mr. ROLLINS. There is a brief report accompanying the bill which explains it fully. It is found on examination that passed assistant paymasters will not be affected by the bill, and so it is not necessary to include them in its provisions.

Mr. McMILLAN. Let the report be read.

The Acting Secretary read the following report, submitted by Mr. ROLLINS on the 1st of April:

The Committee on Naval Affairs, to which was referred the bill (S. No. 625) to amend section 1556 of the Revised Statutes, giving longevity pay to certain officers of the Navy, having had the same under consideration, submits the following report:

The purpose of the bill referred to the committee was to give to the passed assistant surgeons, passed assistant paymasters, and passed assistant engineers of the Navy an increase of pay of \$250 per annum after they had received the pay now provided by law for a period of ten years, and at the expiration of a further period of five years to give them another increase of like amount. The committee, on investigation, finds the following facts:

All the officers who would be affected by this bill have the relative rank of lieutenants by law, but are paid \$400 per annum less than they, while they are subject to the same expenses as to uniforms, messes, &c. The next higher grades of the staff corps to which these officers belong have five grades of pay, increasing with each period of five years' service in those grades. There are now no passed assistant surgeons in the Navy who have been such for ten years, and hence none could now be benefited by the bill; and there are but four passed assistant paymasters who have been such for ten years, all of whom (except one who is undergoing suspension) will be promoted within a few months by retirements. The committee has therefore reported the bill with an amendment, making it include only the passed assistant engineers.

Great injustice seems to have been done to this grade of officers. All of the 45 who would be benefited by the bill entered the Navy during the war, in 1861 and 1862, under regulations of the Navy Department, which provided for their promotion to the grade of chief engineer after they had seen seven years' sea service in the junior grades; but, as a matter of fact, all of them have already been passed assistant engineers for from fourteen to sixteen years, and by reason of the laws now in force they can only be promoted by the deaths or retirements of chief engineers. Many of them cannot be promoted in less than ten or twelve years from the present time, which will give them an approximate period of twenty-five years' service in the same grade. An examination of the Navy Registers from 1862 to 1882, shows that the officers of the line who entered the active service from the Naval Academy in 1861 and 1862 have long been commanders, and the medical and pay officers of the same dates of entry, are medical and pay inspectors or have been surgeons or paymasters for many years, while those engineer officers who entered at the same time are still passed assistant engineers, receiving from one-half to less than two-thirds the pay of their contemporaries of twenty years ago.

The honorable Secretary of the Navy in his last annual report earnestly recommends their case to favorable consideration.

During the last session of the Forty-sixth Congress the Committee on Naval Affairs reported a bill giving this same increase of pay to the passed assistant engineers, which was passed by the Senate, but failed to be reached in the House.

The committee therefore reports the bill as amended, with a favorable recommendation.

Mr. McMILLAN. Now, will the Senator from New Hampshire explain the effect of the bill fully?

Mr. ROLLINS. It simply gives passed assistant engineers of the Navy longevity pay after ten years' service.

Mr. COCKRELL. What change does it make in existing law?

Mr. ROLLINS. It makes just this change; and if the Senator had attended to the reading of the report I think he would have discovered just exactly what the bill provides for. It provides that after ten years' service passed assistant engineers shall have an increase of their pay—longevity pay.

Mr. COCKRELL. Why strike out passed assistant surgeons and passed assistant paymasters?

Mr. ROLLINS. Because it is found on examination that there are no cases to be affected by the bill if those words remain in. Promotion comes more rapidly in those branches of the service, and so there are no cases to be affected.

Mr. COCKRELL. I cannot understand. I cannot hear the Senator.

Mr. ROLLINS. Promotion comes more rapidly in the other branches. In the corps of passed assistant surgeons and passed assistant paymasters promotions are rapid, and there are no men in those corps to be affected by longevity pay. They get an increase without that. It is not necessary to include them.

Mr. COCKRELL. How do they get an increase of pay?

Mr. ROLLINS. By promotion in the corps. In the corps of passed assistant engineers promotion is very slow indeed, and there are many men who have been in the service a long time without any promotion; it is impossible for them to have promotion; and the committee thought it was but reasonable that after ten years' service they should be entitled to an increase of pay. The bill simply provides for that increase.

Mr. McMILLAN. Will the Senator state what the increase is, so that we may know? It will obviate the rereading of the bill.

Mr. ROLLINS. I will.

Mr. COCKRELL. I think this had better lie over without prejudice.

Mr. ROLLINS. I can give the facts in a moment.

The PRESIDENT *pro tempore*. It is very near two o'clock, and perhaps the Senator would be interrupted. The Chair will announce the morning hour as closed, and the bill will be the first in the morning.

Mr. ROLLINS. Very well.

## HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. Before laying before the Senate the unfinished business, the Chair will present some House bills for reference.

The bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence was read twice by its title, and referred to the Committee on Finance.

The joint resolution (H. R. No. 212) making an appropriation to supply a deficiency in the appropriations for the payment of Army pensions of the United States for the fiscal year ending June 30, 1882, was read twice by its title, and referred to the Committee on Appropriations.

## MILITARY LAND-WARRANT LOCATIONS.

The PRESIDENT *pro tempore*. The unfinished business is the bill (H. R. No. 4197) re-establishing the court of commissioners of Alabama claims and for the distribution of the unappropriated moneys of the Geneva award.

Mr. PUGH. Mr. President, the bill that I will describe as the 5 per cent. land bill passed the Senate on Friday last. In the absence of many Senators I voted for the bill to enable me to enter a motion to reconsider the vote by which it passed. I now enter that motion. I am informed that the bill has been sent to the other House, and so I also move that the House of Representatives be requested to return that bill to the Senate.

The PRESIDENT *pro tempore*. Both motions will be entered.

Mr. HARRIS. The order for the return of the bill should be made at once, pending the motion to reconsider.

Mr. ALLISON. I hope no action will be taken in the absence of the Senator from Kansas, [Mr. PLUMB.]

Mr. PUGH. Certainly not. I do not desire any action till it is the pleasure of the Senate. I simply enter the motion to reconsider.

The PRESIDENT *pro tempore*. The bill must be recalled from the House before it can be reconsidered.

Mr. PUGH. I want it returned from the House, of course.

Mr. ALLISON. But it is not likely to pass the House to-day.

Mr. PUGH. I make the motion.

Mr. HARRIS. The rule authorizes a motion to reconsider to be made at any time within two days after the passage of a bill; and if the bill has passed from the Senate and been sent to the House of Representatives, the same rule requires that the Senate shall request the House to return the bill. The House should certainly be notified of the motion and requested to return the bill.

Mr. HOAR. I call for the regular order.

The PRESIDENT *pro tempore*. It is before the Senate. The Chair supposed this other matter might be indulged simply to find out what should be done as the proper course of proceeding.

Mr. HOAR. But I understand the Senator from Iowa [Mr. ALLISON] has expressed the desire that nothing should be done upon this subject until the Senator from Kansas [Mr. PLUMB] who has charge of the 5 per cent. bill returns to his chair. Certainly every Senator will acquiesce in that.

Mr. PUGH. I do not want my right to enter the motion to reconsider prejudiced.

Mr. HOAR. Not in the least. It cannot be prejudiced.

Mr. PUGH. With that understanding, I do not desire any action in the absence of the Senator from Kansas.

The PRESIDENT *pro tempore*. This is the rule:

When a bill, resolution, report, amendment, order, or message, upon which a vote has been taken, shall have gone out of the possession of the Senate and been communicated to the House of Representatives, the motion to reconsider such vote shall be accompanied by a motion to request the House to return the same to the Senate; which last motion shall be acted upon immediately, and determined without debate.

Mr. HOAR. Now, the Senator from Alabama has the right to make that motion, as a matter of the highest privilege, at any time within two legislative days from the original passage of the bill. Therefore I suggest to him that he acquiesce in the suggestion of my friend from Iowa to make the motion when the gentleman who has charge of the bill is present.

Mr. PUGH. There certainly can be no objection to the House being notified that we request the return of the bill. I do not ask any action on the reconsideration now.

Mr. HARRIS. The rule plainly indicates that this motion may be made at any time within two days; and the rule provides that the motion to request the House to return the bill shall be acted on at once. As a matter of courtesy to any Senator making the motion to reconsider the House ought to be requested to return the bill. When the motion to reconsider is determined by the Senate the bill will go back to the House if the Senate shall so order.

Mr. ALLISON. I trust the matter will just lie with the motion to reconsider entered by the Senator from Alabama. I do not wish to interpose any objection.

The PRESIDENT *pro tempore*. The motion should be withdrawn. The Chair ought not to receive the motion because the Senator from Massachusetts [Mr. HOAR] has the floor upon the pending business.

Mr. BAYARD. May I say that I think to enter a motion to reconsider is the right of any Senator who voted in the affirmative, if he makes the offer within two days; and it certainly is the part of comity that the House should be informed that the motion has been made in the Senate to reconsider that bill, for before that motion can be decided the bill must be brought back; therefore as a matter of course a message should go from the Senate to the House.

Mr. HOAR. I call for the regular order.

The PRESIDENT *pro tempore*. The regular order is before the Senate, and the Chair recognizes the Senator from Massachusetts.

Mr. HOAR. I understand that I have the floor, and that my honorable friend from Alabama cannot take me off the floor to enter a motion to reconsider. That matter is not before the Senate. I should yield to my friend, however, if he desired me to do so, of course, if it were not for the fact that he can just as well enter the motion half an hour or an hour hence, when the Senator from Kansas will be present.

Mr. PUGH. Has my motion been entered, Mr. President?

The PRESIDENT *pro tempore*. No, sir; it has not been entered because the Senator from Massachusetts has the floor.

Mr. ALLISON. I will say that the Senator from Alabama is not prejudiced. If the Senator from Kansas does not come in he can make his motion later in the day.

Mr. HARRIS. The Senator from Massachusetts will certainly yield the floor in order that the motion may be entered. Neither the Senator from Alabama nor any other Senator desires the motion taken up now in the absence of the Senator from Kansas.

Mr. HOAR. I call for the regular order. If the motion to reconsider is entered, the motion for the return of the bill must be immediately put, and that is not desired to be put in the absence of the Senator from Kansas.

Mr. PUGH. Has there been any action on my motion?

The PRESIDENT *pro tempore*. None whatever, because the Senator could not take the Senator from Massachusetts off the floor. If

gentlemen rise to any point of order, well and good; otherwise the Senator from Massachusetts has the floor on the regular order of the day.

Mr. PUGH. Have I a right to make the motion?

The PRESIDENT *pro tempore*. Not while another Senator has the floor. The Senator has the right at any other time when he can get the floor.

Mr. HOAR. Mr. President, I will be governed by the desire of the Senator from Alabama himself on this question. I want Senators to understand—

Mr. PUGH. I simply desire the motion to be entered, but I do not wish to take any action whatever on it in the absence of the Senator from Kansas.

Mr. HOAR. Let me complete my statement, and there will be no difference of opinion about this matter. If the Senator from Alabama elects to desire me to yield now that he may enter his motion, the rule imperatively requires the question of having the bill returned from the House to be put at once and at the same time; so that the Senator will be compelled then himself to decline the request of the Senator from Iowa that this matter may stand till the Senator from Kansas comes in. All that I desire is that he shall defer his entry of the motion—which he can make at any time within two days—until that Senator comes in, who wishes to be heard, I suppose, on the question of asking that the bill be returned. I will yield to the Senator at any time he makes the request, but he certainly will not make the request until the Senator from Kansas comes in.

Mr. PUGH. If I am bound to couple the motion to have the bill returned with the motion to reconsider—

Mr. HOAR. You are.

Mr. PUGH. That seems to be the opinion of the Chair.

Mr. BLAIR. The motion has to be decided at once and without debate, so that no time is lost.

Mr. PUGH. Suppose I enter the motion to reconsider and let the other motion rest.

Mr. HOAR. You cannot do that under the rule. That is the trouble.

The PRESIDENT *pro tempore*. A motion to reconsider has to be accompanied by a motion to request the House to return the bill to the Senate, "which last motion shall be acted upon immediately and determined without debate; and when determined in the negative shall be held to be a final disposition of the motion to reconsider." If determined in the affirmative, the bill goes back, and the motion to reconsider attaches.

Mr. PUGH. Shall I have the same right to make these motions to-morrow morning?

Mr. HOAR and others. Certainly.

The PRESIDENT *pro tempore*. The motion can be made at any time within two days.

Mr. HARRIS. The Senator from Alabama can certainly make the motion to-morrow, as he has two legislative days.

The PRESIDENT *pro tempore*. The motion can as well be made to-morrow. That will be the second legislative day since the passage of the bill.

Mr. PUGH. Then let the matter pass over until to-morrow.

#### PRINTING OF TESTIMONY.

Mr. CONGER. I ask that an order be made for printing the testimony taken by the Select Committee on the Reclamation of the Potomac Flats, &c., for the use of the committee. I ask that that order be made.

The order was agreed to, as follows:

*Resolved*, That the testimony taken by the Select Committee on the Reclamation of the Potomac Flats, &c., be printed for the use of the committee.

#### GENEVA AWARD.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4197) re-establishing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award.

Mr. HOAR. Mr. President, the questions which are presented by the bill now before the Senate have been discussed by law-writers, by eminent members of each House of Congress, and by a large number of interested persons who have written pamphlets and made other publications upon the subject, ever since the final determination of the tribunal at Geneva. He would be a bold man who undertook to contribute a new argument in the present state of the public business, with any expectation of being listened to. The questions which are raised are, some of them, a good deal like questions in theology. The more subtle, intricate, and peculiar the course of reasoning by which any person who advocates some of these various theories, the more the advocate seems to be confirmed in his own opinion. The practical common sense, however, of the House and of the Senate has brushed aside the technicalities, the metaphysics, the legal subtleties which have been addressed to them and has determined (almost) wherever there has been an opportunity for a decision, that the sum received of England in payment for losses which were the result of her negligence in the performance of an international duty, should be paid over to the persons who were the actual losers thereby, and the House and Senate, I think, without an exception but never reaching concurrent action in any single Congress,

have always, by decided majorities, been of opinion that the persons who lost practically by the negligence of England were the persons who were obliged to pay large sums of money to insure their ships and cargoes while afloat against the risks of war which was waged by cruisers issuing out from English ports, equipped by English capital, manned by Englishmen, and the persons whose ships or cargoes were actually destroyed by such hostilities, and that they and they alone were entitled to receive this compensation.

The bill before the Senate provides that what remains, which in the year 1877 was a little short of \$10,000,000, in the Treasury undistributed of this fund shall be paid to persons whose ships were destroyed by confederate cruisers, and what remains of the fund after that payment shall be distributed *pro rata* among the persons who were obliged to pay their money, called the war-premium men, to insure their ships and cargoes against this risk. These persons, the war-premium claimants, are among the most respected, enterprising, patriotic, and honest citizens of the seaboard States on the Atlantic and on the Pacific. As it would be natural to believe, the men who were engaged in shipping enterprises during the war, trading coastwise, trading to South America, trading to Asia and to Europe, were among our intelligent and enterprising business men. Some of them are men of wealth; some of them the losses of the war reduced to poverty from which they have never extricated themselves.

I have in my hand a list, as far as can be ascertained, of the persons in Maine, Massachusetts, New York, California, Oregon, Connecticut, Rhode Island, Pennsylvania, Maryland, and one or two other seaboard States, amounting in all to nearly four hundred, and it is, I believe, remarkable that among all these claimants no Senator representing the States where they live, so far as I have been able to learn on inquiry, no one of the persons who have represented them before the committees of this body or the other House, knows of an instance (with a single exception of one case of collateral security) where one of these claims is not in the hands of the original owner or his representative. The gentlemen who have been here to present their case are the owners themselves. They are the only losers by the negligence of England who remain unpaid.

The owners of ships and cargoes destroyed by the cruisers, for whose acts England was held by the tribunal at Geneva directly responsible, have been paid in full. The insurance companies have been paid in full to the extent of their loss under the provisions of the original bill, where they could show that their whole business of taking war risks during the war resulted in a loss. In other words, unless the fund raised by these very war-premium men had been sufficient to indemnify and compensate the insurance companies for all their business during those years of this class the insurance companies came in, sharing with the sufferers from the inculpated cruisers.

I wish to state this case about as briefly and compactly as it would be stated in the marginal notes of a decision of the Supreme Court of the United States, merely stating the heads or points, reserving myself for any full discussion to a reply, if it shall be necessary, to any argument advanced on the other side.

These war-premium men created the fund which kept others from loss; they united to place in the possession of the men transacting the business of marine insurance a large fund. Now, what would have happened if that had not taken place? They would either themselves have sailed their ships uninsured, in which case their losses would have been directly provable against the fund received from England under the original bill, or the American flag must have withdrawn from the seas. The result is that every ship and cargo which was destroyed by a confederate cruiser and which was not paid for by reason that the owner had been insured has been in fact paid for by these very war-premium claimants. It was the fund raised and contributed by them, whether dealing with mutual or with stock insurance companies it makes no difference, it was their contribution which exempted the fund that was in the possession of the United States from having been already exhausted, so far as it would be exhausted by payment for the losses of ships which were insured. The fund, therefore, so much as is left of it, is precisely their contribution, and but for that contribution that fund would have been diminished by the value of every insured ship and cargo destroyed by confederate cruisers and not paid for. So that this fund owes its size, its existence, and presence in the Treasury to the contribution of the men who have paid the war premiums.

In the next place, if it had not been for the contribution of the men who paid war premiums no claim whatever could have been proved against England. Suppose the owners of ships had not insured their ships and paid the premium; the alternative would have been that the business which they transacted must have been abandoned or been carried on under neutral flags. Under the decision of the tribunal at Geneva, however culpable England might have been in neglecting the proper precautions to prevent these cruisers from issuing from her ports, no legal claim could be established against her for the mere loss to this nation of its shipping business; and therefore if the business of marine insurance had not been conducted, and the owners of ships and cargoes had not contributed this fund by the payment of their war premiums, the country would have suffered the total destruction of its foreign commerce during the war except so far as it could have been carried on without any insurance at all, and

would have been unable to establish, under the law as administered by that tribunal, any claim against England at all.

These war-premium men, therefore, are the men who created the fund which kept others from loss, and whose payment made it possible to establish any claim whatever against the government of Great Britain.

Now, I hold that these men, whose courage, whose enterprise, whose energy, whose pecuniary contribution enabled the American flag to keep afloat on the sea during those years of peril and disaster, have the first claim upon the equity and upon the bounty, if it be a bounty, of the Government.

It is not the case of an ordinary loser by the war, of a person whose property was destroyed upon land, or whose life was destroyed or whose health was injured. It was the duty and the right of this Government on the first issuing of a confederate cruiser from an English port to go to war, to declare war against England, and the Government omitted this duty of protection to its citizens; it omitted even the attempt to protect them to the best of its power, because, to use the homely phrase of Abraham Lincoln, we could not afford to have two wars on our hands at once. The Government said in substance, We will elect to present this claim for damages against England and leave our commerce unprotected, instead of asserting our just right under the law of nations to protect our commerce at the time; and the fund, therefore, which it has received as a result of that election it holds properly and equitably as a trust fund for the benefit of the persons whom it elected, for wise and just reasons, undoubtedly, to leave unprotected.

Now, Mr. President, it is said that the men who paid these premiums are not losers, because they added the cost of insurance to the price which they received for their goods; and that claim, though it has no foundation in fact, has been specious and plausible enough to affect some very able and otherwise impartial minds. I think it impressed the distinguished chairman of the Judiciary Committee of the Senate. But an examination of the character of the business these men conducted and a brief reflection cause this suggestion at once to disappear. There was not an owner of a ship which was sailed under the American flag, there was not an owner of a cargo on board any one of these ships, who was not prosecuting his business of freighting or his business as a merchant in competition with English or other foreign merchants or ship-owners who could undersell him in his own market if he undertook to add an extraordinary cost to the price of his merchandise.

I have in my possession, taken from the New York commercial publications at the time, a list showing the course of business at that time. This is compiled from the New York Shipping and Commercial List of the years 1861, 1862, 1863, and 1864:

*Discriminating rates of freight in favor of foreign vessels during the years 1861 to 1865, inclusive, compiled from the files of the New York Shipping and Commercial List.*

1861.

April 27.—English bottoms have a decided preference on account of the war clause in their insurance policies. Letter from Captain Remington, of bark *Mustang*, at Havana, states that Spanish merchants were afraid to ship by American vessels, owing to existing difficulties, and were giving French and English the preference.

May 25.—Corn to London: American vessels, 9*d.*; foreign vessels, 10*d.*

The American ship-owner was obliged, in addition to taking the war risk, to take a less sum for his freight by reason of the danger anticipated by the freighter.

May 29.—Foreign vessels command the highest rates, most of the orders received here from England being restricted to foreign bottoms. The discrimination in favor, 1*d.* to 2*d.* Wheat to Liverpool: American vessels, 8*d.*; foreign vessels, 10*d.* Wheat to Cork for orders: American vessels, 10*d.*; foreign vessels, 12*d.*

June 1.—Freight rates lower, but foreign bottoms still have the preference.

June 5.—Wheat to Liverpool: American vessels, 7*d.* to 8*d.*; foreign vessels, 8*d.* to 9*d.* Murdoch & Snythe's circular of this date says: Neutral flags command 15 to 20 per cent. over quotations for American vessels.

July 3.—Grain to Antwerp: American vessels, 9*d.*; foreign vessels 11*d.*

August 7.—Corn to Liverpool: American vessels, 8*d.* to 9*d.*; foreign vessels, 9*d.* to 9*d.*

September 11.—Rye to Antwerp: American vessels, 13*d.* foreign vessels, 14*d.*

October 26.—Flour to London: American vessels, 3*s.* 9*d.*; foreign vessels, 3*s.* 10*d.*

December 4.—Flour to Liverpool: American vessels, 2*s.* 3*d.* to 2*s.* 6*d.*; foreign vessels, 2*s.* 9*d.* to 3*s.* Wheat to Liverpool: American vessels, 8*d.* to 9*d.*; foreign vessels, 10*d.*

1862.

January 1.—Flour to Liverpool: American vessels, 2*s.* 6*d.*; foreign vessels, 3*s.* 2*d.* February 1.—Flour to London: American vessels, 2*s.* 9*d.* to 3*s.*; foreign vessels, 2*s.* 4*d.*

March 1.—Flour to Liverpool: American vessels, 2*s.* to 2*s.* 1*d.*; foreign vessels, 2*s.* 3*d.* Corn to Liverpool: American vessels, 6*d.*; foreign vessels, 8*d.*

April 2.—Flour to London: American vessels, 1*s.* 10*d.*; foreign vessels, 2*s.*

May 3.—Flour to Liverpool: American vessels, 2*s.* 3*d.* to 2*s.* 4*d.*; foreign vessels, 2*s.* 5*d.*

October 18.—Vessels under foreign flags command higher rates, in consequence of the reported seizure and destruction of American vessels by the rebel steamer "290."

October 25.—Shipments making almost entire in foreign bottoms, American vessels being in disfavor.

October 29.—Shipments to Liverpool and London by American vessels small, and rates for grain lower, but by foreign bottoms there is a fair business at full previous rates. Wheat to London: American vessels, 10*d.* to 10*d.*; foreign vessels, 11*d.* to 12*d.*

November 15.—Flour to London: American vessels, 2*s.* 4*d.* to 2*s.* 6*d.*; foreign vessels, 3*s.* to 3*s.* 6*d.*

December 10.—Wheat to London: American vessels, 9*d.*; foreign vessels, 10*d.* Flour to London: American vessels, 2*s.* 4*d.*; foreign vessels, 3*s.* to 3*s.* 1*d.*

1863.

January 3.—Flour to Liverpool: American vessels, 1s. 9d. to 1s. 10½d.; foreign vessels, 2s.

February 4.—Flour to Liverpool: American vessels, 1s. 10½d. to 2s.; foreign vessels, 2s. 9d. Bacon and lard to Liverpool: American vessels, 20s.; foreign vessels, 22s. 6d. to 30s.

March 4.—Pork to Liverpool: American vessels, 3s.; foreign vessels, 4s. Flour to London: American vessels, 2s. 3d.; foreign vessels, 3s.

April 4.—Flour to Liverpool: American vessels, 1s. 7½d.; foreign vessels, 2s. to 2s. 4½d. Bacon and lard to Liverpool: American vessels, 17s. 6d.; foreign vessels, 22s. 6d. to 25s. Flour to London: American vessels, 2s.; foreign vessels, 2s. 9d.

May 6.—Flour to London: American vessels, 1s. 9d.; foreign vessels, 2s. to 2s. 3d. Flour to Liverpool: American vessels, 1s. 3d.; foreign vessels, 2s.

June 6.—Flour to Liverpool: American vessels, 1s. 6d. to 1s. 8d.; foreign vessels, 2s. to 2s. 3d. Wheat to Liverpool: American vessels, 7d. to 7½d.; foreign vessels, 7½d. to 7½d.

July 1.—American bottoms neglected. Flour to Liverpool: American vessels, 1s. 9d. to 2s.; foreign vessels, 2s. 1½d. to 2s. 6d. Wheat to Liverpool: American vessels, 7d. to 7½d.; foreign vessels, 8½d.

August 1.—American vessels are in but little request, and chiefly for coastwise voyages. Wheat to Liverpool: American vessels, 6d. to 7d.; foreign vessels, 6½d. to 8d.

September 2.—American vessels almost entirely neglected. Wheat to Liverpool: American vessels, 6½d.; foreign vessels, 7½d.

October 3.—Wheat to Liverpool: 5½d. to 6½d.; foreign vessels, 7½d.

November 4.—Neutral vessels continue to receive the "lion's share," as may be inferred from the fact that of some one hundred and fifty vessels loading for foreign ports, only twenty are covered by the American flag. Wheat to Liverpool: American vessels, 4½d. to 4½d.; foreign vessels, 4½d. to 5d.

December 5.—The war risk remains 2 per cent. to all ports in Great Britain on shipments covered by the American flag.

1864.

January 20.—Wheat to Liverpool: American vessels, 4½d.; foreign vessels, 5½d. Flour to Liverpool: American vessels, 1s. 3d.; foreign vessels, 1s. 6d.

February 3.—Flour to Liverpool: American vessels, 10½d. to 1s.; foreign vessels, 1s. 6d. Wheat to Liverpool: American vessels, 4½d.; foreign vessels, 4½d.

March 9.—Pork to Liverpool: American vessels, 2s. 6d.; foreign vessels, 3s. Bacon to Liverpool: American vessels, 17s. 6d.; foreign vessels, 20s. to 22s. 6d.

April 6.—Bacon and lard to Liverpool: American vessels, 10s. to 12s. 6d.; foreign vessels, 20s. Bacon and lard to London: American vessels, 17s. 6d.; foreign vessels, 22s. 6d.

May 4.—Tallow to Liverpool: American vessels, 5s.; foreign vessels, 12s. 6d.

June 1.—Flour to Liverpool: American vessels, 2s.; foreign vessels, 2s. to 2s. 1½d.

July 2.—Wheat to Liverpool: American vessels, 3d. to 4½d.; foreign vessels, 4d. to 4½d.

August 3.—Flour to Liverpool: American vessels, 1s. 9d. to 2s.; foreign vessels, 2s. 3d.

September 3.—Wheat to Liverpool: American vessels, 5½d. to 5½d.; foreign vessels, 5½d. to 6d. Tallow to Liverpool: American vessels, 12s. 6d.; foreign vessels, 22s. 6d.

October 1.—Flour to London: American vessels, 1s.; foreign vessels, 1s. 3d.

November 16.—Wheat to Liverpool: American vessels, 2½d. to 3d.; foreign vessels, 3d.

December 7.—The discrimination against American bottoms is so great that neutrals are almost monopolizing the European trade. Beef to Liverpool: American vessels, 1s. 6d.; foreign vessels, 2s. 3d. Tallow to Liverpool: American vessels, 7s. 6d.; foreign vessels, 12s. 6d. to 15s.

1865.

January 7.—Neutral flags continue to monopolize the bulk of the business to foreign ports, and the fact that two more rebel pirates, the Shenandoah and Olustee, are depredating upon our commerce is not likely to help matters. Logwood to Liverpool: American vessels, 8s. 6d.; foreign vessels, 10s.

February 4.—Bacon to Liverpool: American vessels, 10s.; foreign vessels 15s.

March 20.—Provisions to Liverpool: American vessels, 2s.; foreign vessels 5s.

## EXPLANATIONS.

The rate on flour is by English shillings per barrel.

The rate on grain is by English pence per bushel.

The rate on provisions and tallow is by English shillings per ton.

I have a statement by a gentleman known to me as a most distinguished Boston merchant, who states freely the course of his business, which I ask the Secretary to read. It is very brief.

The Acting Secretary read as follows:

WASHINGTON, 30th January, 1882.

GENTLEMEN: As the "Geneva award" is soon again to be considered by the Senate, and as there seems to be a strange misunderstanding of the actual loss of the war-premium claimants, I beg to state that I imported teas largely from China. In order to do this I was compelled to use letters of credit on London, which I could not obtain except on the condition that I would provide insurance against all risks, including that of war. The teas were shipped by American vessels, liable to capture. I was therefore compelled to pay war premiums.

My neighbor imported teas by British vessels and thus avoided the additional cost of war premiums. But the teas being alike, they could be sold only at the same price, and I thus lost the whole war premium. Nor was the war premium reimbursed by a corresponding advance in general market prices, as these were kept down not only by direct importations under foreign flag but also by importations by steam or sail from the nearer markets of England, where were always large supplies, and whence they came whenever our prices in gold got above the English prices in gold. All foreign goods could be bought only for gold, and when I sold here for paper money brought only so much gold as the paper would buy, which, when gold was at 280, was only 36 cents in gold for 100 cents in paper.

Respectfully, yours,

GEORGE M. BARNARD, of Boston.

Hon. H. L. DAWES,

Hon. G. F. HOAR,

Senators from Massachusetts, United States Senate.

Mr. HOAR. I will not pursue at this time this point further. I have also a statement prepared by a very eminent gentleman in San Francisco—Mr. Fay—showing the course of business at that port, and its effect upon the coastwise business. Here is one sentence which I take at random:

Take the case of coal brought to San Francisco from the Eastern States, England, and Australia, which is and was very large, amounting in the aggregate last year to more than 600,000 tons. Fully two-thirds of coal arrivals are from foreign countries. How could the American shipper or merchant add war premiums to his price of coal in the face of such foreign competition? All kinds of iron and steel were similarly affected. The English resident merchant's price was the ruling price absolute in San Francisco.

I dare say my honorable friend from California [Mr. MILLER] who listens to me can confirm from his own observation the truth of Mr. Fay's statement.

Mr. MILLER, of California. It is true.

Mr. HOAR. This statement takes up all the chief branches of trade in American bottoms to the port of San Francisco during the war. He says:

Take the case of an assorted cargo shipped from New York to San Francisco, (and here it should be remarked that of the few great distributing markets London and New York are the largest, New York being the great distributing market for the whole of the United States, including the Pacific coast.) Cargoes and unbroken packages go there in bulk, and are broken and distributed to smaller markets, as in London.

This assorted cargo is made up of coal and iron for heavy weight, tin-plate, Russia sheet-iron, gunnybags, heavy drills for grain-sacks, coffee, cigars, glass, (plate, table, and window,) ale, beer, and whisky, woolen and cotton cloths, imported fancy goods, and dry goods, refined sugars, Mediterranean dried fruits, woolen carpeting, cheese, hosiery of all kinds, silk goods, and scores of other articles, all of which found, when offered in the San Francisco market, competing goods of the same class imported in foreign ships, and drawn from England, France, Germany, Spain, Russia, Switzerland, China, and elsewhere, all paying no war premiums. In the face of these foreign importations how could the San Francisco merchant, ordering goods from New York, add the war premium to his prices and retain his customers?

I wish to allude to but one other point in this connection, and that is the claim based upon a technical and narrow view of the law of subrogation, that the insurance companies who have insured vessels and cargoes which were destroyed by these cruisers are entitled, under the doctrine of subrogation, to this fund. That matter has been discussed so often and that claim has found so small support either in the Senate or the House, or with the profession—small I mean in numbers, although it has convinced some very able and admirable legal minds both in the Senate and elsewhere—that it seems to me we are not bound to spend a great deal of time over it.

We are to remember that this claim is based upon the neglect by England of an international duty. It is precisely such a claim as might be made in the domestic law directed against a city or a town for a failure to maintain an adequate police force. It is enough answer as it seems to me to the claim of the insurance companies to say that the law nowhere recognizes the existence of a claim of an individual against a government, whether his own or a foreign government, for a mere neglect, a failure in energy, a failure in zeal, a failure in adequate means, being mere omission or negligence on the part of a government. In no case known under the law would such negligence be the foundation of an individual claim either against one's own government or a foreign government.

There may be, undoubtedly, claims by citizens of the United States against England arising out of contract which this Government might present and collect. There may be direct claims against the Government of England arising out of torts; as if by orders of its government an English man-of-war should seize one of our vessels upon the high seas; and to that class of claims, undoubtedly, an insurer of a ship and cargo which would be destroyed might under the principles of subrogation be substituted.

But here is a claim founded upon the negligence, the omission of a duty which England owed, not to an individual citizen, not to any person or corporation, but to the Government of the United States itself. The liability of England was as complete—I do not mean that the damages would be as great—when the Alabama sailed out of the port of Liverpool; nay, the liability of England was complete in the absence of any proper neutrality act existing in her law before a single confederate cruiser left her port. The measure of damages was different, but the negligence of England, her liability for it to this Government, was the same whether a single ship or a single pound of the cargo was destroyed or not. For such a claim as that, no individual claim being established by the negligence of a foreign government, no subrogation on the part of an insurance company can exist.

In the next place, the thing by which these cargoes and ships were destroyed was an act of war. No action would lie against the captain or crew of a confederate cruiser on the part of any citizen.

That act of war was made injurious to the sufferer by the negligence of Great Britain. If an injury to these cargoes had occurred in the city of Boston and the city of Boston had failed to provide a sufficient police force or a sufficient force of firemen or fire engines, or neglected any other municipal duties, no action would have risen on behalf of the loser against the city. That view has been recognized and asserted by every authority which can be recognized as being entitled to speak with authority upon this question.

I will not recite the familiar history of this award. Our Government presented this claim against England to the tribunal at Geneva, carefully instructing its counsel to present it as a national claim only. Mr. Adams, in giving the decision of a majority of that tribunal, declared that the tribunal holds Great Britain liable for want of due diligence; due means owing to somebody; and then he goes on to say to whom that want of due diligence is owing, not to an American citizen as an individual, but to the nation. The Government reserved to itself in its instruction to its counsel, carefully, the right to distribute this fund among the persons that it shall hold entitled to it in equity after it is received.

I already have stated in the Senate, on the authority of a member of the joint high commission, that when the treaty of Geneva was framed it was framed with express reference to the assertion and the

preservation of this principle. Our commissioners asked the English commissioners to agree to a gross sum. They insisted on their part in having each separate and individual damage measured and paid for; and they failed to agree for some time. Our commissioners said that it was the desire of the United States Government to distribute this money when received according to its own sense of the actual loss without regard to the character of the claims which might be presented at Geneva as helping to measure or ascertain that loss, and that if it was the desire of the parties entering into the treaty to remove the feeling which existed in America of wrong and of irritation it would go very far to do it if it would consent to make the treaty in that way. The English commissioners considered it over night and came back and accepted the proposition of the United States commissioners.

This matter has been before the English courts in the case of *Burnand vs. Rodocanachi* in the court of appeals decided on the 7th of March, 1881, on appeal from the lower court. The English court of appeals stated in the clearest manner that this claim was a national claim, and was a claim to which the doctrine of subrogation could not be held to apply.

Mr. GARLAND. I wish to ask the Senator a question in that connection. I do not care to detain the Senate at any length of time upon this matter. I have read the decision in the English Law Times to which the Senator refers and which he holds in his hand. My version of that decision is that the English court held that this fund did not go to the insurers to be paid as for total loss, because the Congress of the United States had placed a different construction upon it, and they therefore followed the construction placed upon it by Congress. That is my recollection of the decision, and I submit to the Senator if that is not what the court held in the case.

Mr. HOAR. That is one of the grounds upon which they put the decision, but not by any means the sole ground. I will not detain the Senate by reading the opinion in full, but here is what Lord Justice Brett says:

If we had not had plenty of time to consider the point I should think it right to reserve judgment, as the court is not unanimous. This money was in the first place recovered by the American Government from England by treaty. The United States Government did not bind itself in any way as to the disposal of the money, and there was no obligation on it to give any of that money to the present defendants. Therefore there was a sum of money in the hands of the Government and there was no obligation binding the Government as to its disposal. The Government was at liberty to make a gift of it to any person, but was not bound to do so. If it had been paid over as a portion of the salvage it may be that the mere fact that there was no obligation on the part of the Government would not prevent the money from being payable to the underwriters. That may be the effect of the cases before Lord Hardwicke and Lord Northington, (*Kandal vs. Cockran* and *Blaunpot vs. Da Costa*.)

Old cases, a century ago.

But I doubt if that is the principle of those decisions. I should think the principle must be that the Government had recovered the money for the assured; but if that were so the money could not be recovered from the Government. If these decisions proceeded on the supposition that the money was a pure gift on the part of the Government, and was handed over to the assured as such, I could not follow the reasoning; and unless we are bound by the decisions I should say that we ought not to follow them. If the money was paid over in the present case as part of the salvage of the property insured these cases might be authorities in favor of the contention on behalf of the plaintiffs.

In my opinion, however, the true principle is that the United States Government did not pay this money as salvage; that it was paid not for the loss of the goods, but as a gift, because the owners of the goods were not insured to the full value of what they had lost. The Government would have paid the owners of the goods if they had not been insured at all, or if they had entered into a policy but could not recover from the underwriters.

The payment was not in respect of the loss, but because the owners were not fully insured. The present case is quite different from the English cases to which I have already referred, because here the money could only be recovered in America before one court. If the present defendants had sued in that court, stating that they were suing for the underwriters, or if the underwriters had sued in their own names, not one penny could have been recovered. In the English cases, if the assured had declared that he was suing as a trustee for the underwriter, or if the underwriter were suing in his own name, the person so suing would recover all the money; but then the Government would pay as matter of salvage. Here the assured could not recover on the part of the underwriters. I am of opinion that the act of Congress makes it a free gift, whatever money is paid, because the owners are underinsured, and that, therefore, this is distinguishable from the English cases, and the judgment ought to be reversed.

Judgment reversed.

This has been the ground taken by England. Mr. Gladstone, in a debate soon after the close of the war, which I quoted at the last Congress, took very earnestly the same view, disclaiming utterly that the Government of England had ever considered itself in the least liable on account of individual losses, but said that this money had been paid over to the United States as a national indemnity.

Not only that, but the Congress of the United States in the former act decided this question substantially, and the same decision has been made more than once by the tribunal established under the former act in very numerous cases. If the underwriters were entitled to this by the doctrine of subrogation, there would be but two necessary steps to establish that claim against this fund: first, to prove what cases of loss were before the tribunal at Geneva; second, to prove that in those cases the underwriters had paid the parties insured for their loss; but instead of that, Congress established a new trial, the fact being that at Geneva we presented a large claim as the probable aggregate of losses sustained by these cruisers. The English Government presented an estimate somewhat less, a million or two less, and the tribunal split the difference and awarded us a sum half way between the two estimates.

Then when we came to pay over the fund to the actual losers we required a new proof. In many cases persons were paid from that fund under the old law whose cases were not presented at Geneva at all. In many other cases their proof did not establish the full amount which had been presented to the tribunal at Geneva, and more than once the judges in the court of Alabama claims which sat here a few years ago decided that presentation or consideration of a claim at Geneva had nothing whatever to do with the establishment of the claim in that court.

Mr. President, I have abstained from the discussion of this matter at such length as its importance would warrant, because I know it would not be agreeable to the Senate, (nearly every member of which has given it as much study as he has the creed of his church, and some, I am afraid, a good deal more,) at the present time, in the present condition of public business, to go into an elaborate, formal discussion. These are the outlines, the principal points which we make in favor of this bill.

Mr. GARLAND. I desire to offer a substitute for the bill, but before doing that I wish to call the attention of the Senator from Massachusetts to the frame-work of the bill and to make a suggestion to him. I ask the Secretary to read the first part of the second section of the bill that is pending.

The Principal Legislative Clerk read as follows:

That the number of judges for said court, to be nominated and appointed in the mode directed by section 2 of said chapter, shall be three, each to receive the compensation provided by section 4 of said chapter. The presiding justice shall be designated and vacancies filled as therein provided. The agreement of two of the judges shall be necessary to decide any question arising before said court; and said court shall be allowed the necessary actual expenses provided for in said section 4.

Mr. GARLAND. Now I want to make a suggestion. I suppose that the friends of the idea of distributing this fund to the sufferers by the exculpated cruisers and to the war-premium men are probably satisfied with the bill as it is, and desire it to be passed as it comes here and not to send it back to the House with an amendment, but in connection with section 2 I think it is important that some provision should be inserted, whether this bill or any other passes on the subject, to the effect that the action of Congress in reviewing this commission shall not be construed into an intention to continue the former commission, but we must recognize that the commission has expired and that nothing we now do is to continue it. The Senator from Massachusetts will bear in mind that all the bills that have ever been reported from the Judiciary Committee of this body have had in them a clause something like this:

That this act shall not be construed as in any way renewing, extending, or continuing any of the commissions or appointments of judges or officers of the said court of commissioners of Alabama claims issued and made by virtue of said original act.

That is for the purpose of not having a claim upon us that this has been a continuing, existing court all the while.

Mr. HOAR. Were there three or five judges of that court? The number is out of my mind at this moment.

Mr. GARLAND. There were five.

Mr. HOAR. It seems to me that of those five judges two are dead; one is certainly.

Mr. GARLAND. I believe two are dead.

Mr. HOAR. It is quite true, as the Senator says, that it would be very disagreeable to the friends of this bill to have to send it back to the House of Representatives. The judgment of the two branches concurring, as I believe most usually, upon what ought to be done with this question, has never been expressed in the same Congress by reason of the difficulty of getting the matter attended to between the two branches; and at this late day in the session I should be very sorry to send this back where it would have to go into Committee of the Whole of the House again, and perhaps have to take a very low place on the committee's calendar. It seems to me very clear that this expression that the court is to be re-established with new powers, and new definitions of powers, then in the second section making a different number of judges, and saying that they shall be designated as therein provided, using the future tense, would never be construed as reviving an old tribunal which expired five years ago. It seems to me that there is no practical danger of such a construction.

Mr. GARLAND. If the friends of the ideas embodied in the bill are satisfied, I am so far as the frame-work is concerned. I wish now to offer a substitute for the bill, which I ask may be read.

The PRINCIPAL LEGISLATIVE CLERK. It is proposed to strike out all after the enacting clause of the bill, and to insert:

That an act approved June 23, 1874, entitled "An act for the creation of a court for the adjudication and disposition of certain moneys received into the Treasury under an award by the tribunal of arbitration constituted by virtue of the first article of the treaty concluded at Washington the 8th of May, A. D. 1871, between the United States of America and the Queen of Great Britain," be, and the same hereby is, revived, re-enacted, and continued, all the provisions thereof to take effect from and after the approval of this act, except as changed or modified by this act.

Sec. 2. That the number of judges for said court shall be three; and the agreement of two of the judges shall be necessary to decide any question arising before said court.

Sec. 3. That the judges of the court hereby re-established shall convene and organize in the city of Washington as soon as practicable after their appointment; and the court so organized shall exist eighteen months; and all claims provable under this act shall be verified and filed with the clerk of said court within six months from its organization, or they shall be held to be waived and barred. And should it be found impracticable to complete the work of the said court before the

expiration of the said eighteen months, the President may by proclamation extend the time of the duration thereof to a period not more than twelve months beyond the expiration of the said eighteen months; and in such case all the provisions of this act shall be taken and held to be the same as though the continuance of the said court had been originally fixed by this act at the limit to which it may be thus extended.

SEC. 4. That so much of the twelfth section of the said act as provides that "no claim shall be admissible or allowed by said court by or in behalf of any insurance company or insurer, either in its or his own right or as assignee, or otherwise, in the right of a person or party insured, as aforesaid, unless such claimant shall show to the satisfaction of said court that during the late rebellion the sum of its or his losses in respect to its or his war risks exceeded the sum of its or his premiums or other gains upon or in respect to such war risks; and in case of any such allowance, the same shall not be greater than such excess of loss," be, and the same is hereby, repealed.

That any claimant excluded by the provision hereby repealed shall have the like period of time within which to present, file, and prove its or his claim after the passage of this act as he could have had after the passage of the said act if not so excluded.

SEC. 5. That the judgments rendered by said court under this act shall be paid by the Secretary of the Treasury out of the money paid to the United States pursuant to article 7 of the treaty of Washington, and the interest accruing therefrom, not expended in payment of claims heretofore proved and allowed under the provisions of said original act, and the act extending the time for the filing of claims thereunder, and of expenses under this act.

SEC. 6. That this act shall not be construed as in any way renewing, extending, or continuing any of the commissions or appointments of judges or officers of the said court of commissioners of Alabama claims issued and made by virtue of said original act.

SEC. 7. That all moneys necessary for the payment of the salaries of the judges and officers authorized by this act, and for the lawful expenses of the said court hereby re-established, are hereby appropriated out of any moneys in the Treasury not otherwise appropriated; all of which shall be reimbursed out of the said unexpended moneys before any of the judgments rendered under this act shall be paid.

Mr. GARLAND. Mr. President, in 1874, when the act creating the court of commissioners of Alabama claims was passed, both Houses of Congress gave their dissent to the proposition which is embodied in the bill that I have now offered as a substitute for the pending measure. After the expiration of the commission, when the question came back into Congress, various propositions were presented and discussed in both Houses; and some two years ago this spring Senator Thurman, then chairman of the Judiciary Committee, reported a bill substantially the measure that I have now presented. Upon a vote taken in the Senate, I believe there were only seventeen in favor of that bill. A different bill passed the Senate and went to the House, but it was not there acted upon. A year ago last January, as the representative of the Judiciary Committee, I reported to the Senate the bill which I now offer as a substitute for the pending bill, but the session of the Senate passed, and that Congress passed, without any further action being taken on the subject. At the present Congress the Senator from Vermont, [Mr. EDMUNDS,] as representing the Judiciary Committee, reported January 30, 1882, a bill re-establishing the court of commissioners of Alabama claims and for the distribution of the unappropriated moneys of the Geneva award. Pending that bill before the Senate, or rather while resting upon the Calendar of the Senate, the House of Representatives passed the measure which has been read this morning and upon which the Senator from Massachusetts has been heard. The measure reported from the Judiciary Committee by the Senator from Vermont looks entirely to paying the sufferers by what are called the exculpated cruisers. The Committee on the Judiciary differed upon that proposition. A minority of the committee as now organized, represented by myself, notified the Senate at the time of the report of that bill by the Senator from Vermont that that minority would insist upon the adoption of the proposition which I have now introduced.

That proposition looks to paying the losers of vessels that were destroyed or the insurers of vessels who had paid as for a total loss, including both the exculpated-cruiser and the war-premium people. Senators will bear in mind that the proposition of the Senator from Vermont is to pay the victims of the exculpated cruisers, excluding the insurance people and the war-premium people. The proposition that I insist upon, representing the minority of the committee, is for paying the insurers, excluding the exculpated cruisers and the war-premium people.

Mr. JONES, of Florida. Will the Senator permit me to ask him what the chairman of the Judiciary Committee proposed to do with the balance of the fund?

Mr. GARLAND. He very significantly said he would wait until it appeared there was a balance, and further, I believe, he said that generally speaking there was not a balance usually left after providing for the distribution of a certain fund.

Those are the two propositions as coming from the committee, the committee unanimously opposing paying the war-premium people. Meanwhile the House has passed a bill, Senators will bear in mind, paying the exculpated-cruiser sufferers and the war-premium people both, and leaving out the insurance men. That is the state of the case now before the Senate, if I understand it correctly.

As was said by the Senator from Massachusetts, this is an old question, which has been discussed, I expect, as thoroughly as any question has ever been.

Mr. HOAR. I do not know whether it is worth while to trespass on the Senator's good nature; but is there not some mistake about the statement that the committee unanimously opposed the war-premium people?

Mr. GARLAND. If any member of the committee was in favor of

the war-premium people, I am not aware of it; but there may be a mistake about it.

Mr. HOAR. It would be a very uncivil thing for a person not a member of that committee to question the count or state of mind of its members as stated by a gentleman who is a member of it, but I had what I supposed pretty good information that while there was a minority of that committee for the insurance companies and others who were in favor of paying the sufferers by the exculpated cruisers and not the war-premium men, there were members of that committee who were in favor of paying the war-premiums, but were not in favor of putting them on a bill which would bring a majority of the committee over against anything; that is, I suppose, there were three or four war-premium men out of nine. If such a provision were on a bill, the result would be that the insurance men and the exculpated-cruiser men, both, would be obliged to go against that bill, so that the putting the war premiums into it would be the destruction of any report whatever from the committee.

Mr. HALE. Was it not the fact that the only thing the Committee on the Judiciary could agree upon, carrying a majority with it, was the bill in favor of the losers from the acts of the exculpated cruisers?

Mr. GARLAND. I modify my statement to this extent, that if there was anybody upon the committee who favored the war-premium men I was not aware of it. I would change it like the witness said in reference to the striking of the clock. He said it may have struck, but if it did he did not hear it.

Referring to the proposition before the Senate, I was proceeding to state, as the Senator from Massachusetts had asserted, that this was not a new claim at all; that it had been more thoroughly discussed, possibly, than any other question in the same length of time; that it had been before the country, in the newspapers, periodicals, law journals, and pamphlets of every description, by gentlemen in Congress and gentlemen out of Congress, and it would be entirely useless, if not foolish, to undertake now to go into a discussion of this matter from its inception to the present time. I presume every Senator on this floor has his ideas upon the subject. Certainly the older Senators have heard it discussed and have had every opportunity to inform themselves about it.

In brief, Mr. President and Senators, my idea about it is that the finding of the arbitrators at Geneva stamped this fund as a fund to pay the private losers or the insurers who paid as for a total loss of the private property which was destroyed. I never could ascertain what else was determined by that commission. By express ruling they rejected both the classes of claims that the bill of the House provides for. We have the fund sent to us simply impressed with this character that we are compelled to recognize and are compelled to deal with accordingly. Of course gentlemen differ about that, but that is the view I insist upon, representing the minority of the committee, and, as the committee formerly stood, a majority.

When this matter was before the Senate the last time, in March, 1880, immediately after the Senator from Massachusetts who has addressed the Senate to-day made a speech upon it, I submitted some remarks to the Senate, and I now restate the position then taken, and that is all I wish to do with this question. After the board of commissioners met and determined the rules that should govern them in ascertaining the responsibility, first, of the laws regulating the liability of a neutral power, and then the responsibility of that neutral power under those laws, they had submitted to them the different claims which they should pass upon, and they were submitted to them in this order—first the public claims, the national claims.

"First. For the destruction of vessels and property belonging to the Government.

"Second. National expenses in the pursuit of the cruisers.

"Third. Loss in transferring the American commercial marine to the British flag.

"Fourth. Prolongation of the war and additional expenses in carrying on the war and suppressing the rebellion."

These were public claims, the claims national as distinguished from the claims private. The private claims were these:

"First, for the destruction of vessels and property of individuals;

"Second, the damages or injuries growing out of the destruction of vessels; and

"Third, the enhanced payment of insurance, or rather the war premiums."

When these different propositions in this order were submitted to the board of arbitration they took the matter under advisement, adjourned, and met some time after that and rendered their decision. The tribunal determined to exclude everything except, in the language of their opinion, "the direct losses growing out of the destruction of vessels and their cargoes by the insurgent cruisers. If the Government lost her property by those acts, of course the Government was entitled to compensation, the same as were individuals." The commission limited its inquiries to what we call now the inculpated cruisers, the Florida, the Alabama, and the Shenandoah after she left Melbourne, with the four tenders that belonged to the Alabama and the Florida. As to all the other cruisers, whatever depredations they may have committed on the high seas, they were exculpated, and no losses as to them were allowed.

That, quoting from the finding of the commission, is what the board of arbitrators determined upon as the circuit within which their inquiries should be limited and to which they should be confined. Then, following it out in all the letters that were written at that time and the arguments that were made, it has occurred to me that there was nothing in the world left of this inquiry but to give this fund to those who had lost the property or those who had paid for it in the way of insurers. Mr. Cushing, as I quoted in that speech, states that all other questions were relegated, as he termed it, to the field of unexplored national comity or national fair dealing. As a part of the history of this proceeding, when the board of arbitrators returned their finding, the agent of the United States, Mr. Davis, and every person else, expressed approval and satisfaction of it and all were contented with the finding of that board. The very first paper and the second paper ever put in the office of the State Department inciting this inquiry were two claims of an insurance company, and the President of the United States, President Grant, recommended in his message that the Government should buy these claims in order that it might be the owner of them and no longer put the Government to the trouble and necessity and expense of going out and adjudicating for individuals what their losses were.

Taking this proceeding from its beginning up to that time the minority of the committee never could see anything else but that this money belonged to the persons who insured the destroyed vessels of private individuals.

The Senator from Massachusetts has referred to the case which was decided in England, to which my attention has been drawn before, which is reported in the forty-fourth volume of the Law Times Reports, the case of Burnand and others vs. Rodocanachi, Son and Company. It is an appeal from Lord Coleridge, who in his decision took the ground that this money properly belonged as the substitute I introduce contends for. His decision was overruled, however, by a divided court. The case was heard before Judges Bramwell, Bagallay, and Brett. Brett and Bramwell overruled the decision of Judge Coleridge because, they say in so many words, that Congress has found this fund to belong to a different person than the insurance companies, and subject to the maxim that he who gives can take away or dispose of as he sees proper; but Judge Brett differed with the majority of the court, and held with Judge Coleridge that this sum belongs as the substitute I have introduced contends for.

Here at last, while we have a decision of the court by number simply, based upon the idea that Congress has adjudicated this matter, we have two other judges saying that as an original proposition this fund belongs to different persons, namely, the insurers. It is not exactly a fair and proper argument to make to Congress—

Mr. HOAR. Will the Senator allow me to ask him, as he called my attention to it, does not that opinion, as he understands it, not only concede but affirm the power of Congress to dispose of this fund as it shall see fit? I do not now speak of the power in the technical sense in which we have the power to do wrong, but the moral power, as my friend from Maine [Mr. HALE] suggests.

Mr. GARLAND. I have read this opinion several times, because the chairman of the Judiciary Committee imparted to me the pleasant news when I came on in the winter that I had been beaten on this question, and I hunted up the book, and I told him that so far from being beaten I thought I was encouraged and propped up a little. I understand the two judges who decided this case, who make the majority of the court, to say that Congress has determined this matter, has impressed this fund with a certain character, and they will not go behind that, because as Congress gives Congress can take away. They did not consider it as an original question, they did not consider that Congress could dispose of this as it saw proper, whether it was circumscribed by any particular rule of law or not, but simply took it thus: "here we have this fund; the Congress of the United States has said this is the character of the fund; we will accept that for the purposes of this case;" but Coleridge and Brett both differ with the court. So while you have numerically, according to the organization of the court, this decision, you have not yet got the reason of the majority on the side which is contended for by the Senator from Massachusetts.

Besides, it is a vicious circle in argument thus to rely upon that decision.

I wish now to say to the Senate that it is not exactly a fair and proper mode of argument to say that you have stamped this fund with a certain character and a certain impression, and a high court of England has so found that you have stamped it with it, therefore you must adhere to this ground, and we plead this upon your or upon other persons claiming this fund as a matter that is adjudicated. If that were true in point of fact, in point of law there would be nothing left for this Congress to do; the matter is already ascertained according to them.

When Congress passed the act of 1874 creating the court or board of commissioners of Alabama claims those who voted against it did it simply under the protest of persons who were brought into court under order to pay you money subject to the order of the court, but not to compel you to be bound to any particular disposal of it at the time; so that those who oppose this mode of procedure, or oppose the principle upon which this mode of procedure was based, were not committed to any future agitation of the question or against any

future agitation of it or to any particular mode of disposing of the surplus fund, now amounting to some \$9,500,000.

All that I have sought to do or care to do in this argument is to present plainly and clearly the claim of the insurance companies by right of subrogation to the owners of these private damaged or destroyed vessels, and if Senators understand that, it is all that is necessary for them to comprehend in order to vote with any intelligence upon this proposition.

If the bill of the House is adopted the ships captured by the vessels excluded by the commission at Geneva called "exculpated cruisers" and the war-premium people who were excluded also by the board of commissioners come in and are paid and the insurers are rejected. If the substitute that I have offered is adopted, the insurers are paid and the sufferers by the exculpated cruisers together with the war-premium people are excluded.

I think, out of respect and deference to the Senator from Vermont who made the report from the majority of the committee, if the amendment that I have offered in the nature of a substitute is not adopted, I shall feel compelled to offer his bill as a substitute, that the Senate may vote upon it.

Mr. JONES, of Florida. Mr. President, the question before the Senate, as stated by the Senator from Arkansas, [Mr. GARLAND,] is not entirely new. It has been debated here a good deal. When it was last before the Senate I ventured a few observations upon it, and what little investigation I have been able to give to the subject since that time has only confirmed me in the impressions which were first made upon my mind when I heard the matter discussed.

There are three classes of claimants for this fund; the one known as the war-premium men; the other, the underwriters to whom the premiums were paid; and, thirdly, the persons who lost vessels by captures made by what are known as exculpated cruisers. These are the three contending parties for this fund, and Congress in the exercise of what I conceive to be a great equitable power, treating with our own citizens, is called upon to say which of these claimants has the better right or equity to the fund.

It will be observed that we are not here to administer legal rights. We are not here to administer the law of subrogation, which is nothing but a purely legal right, having no foundation or existence anywhere outside of a court of law. I say that the Senate of the United States is not a legal tribunal, and that the right which is set up here on the part of the underwriters to this fund is one which we cannot, from the nature of our organization, take notice of, and indeed I do not believe there is any foundation for it even before a court of law. If the underwriters are not entitled to any of this money, the war-premium men must be, or else we have been overpaid. I have ever regarded the questions determined at Geneva as purely international ones.

I have never thought that any of the citizens whose claims are now before Congress ever had any demand upon any authority or upon anybody for indemnity before these claims were put forth by the United States. I do not think that any of these parties could have gone to Great Britain, could have gone to any authority in existence, and have made any claim. The sole claim that existed was purely an international one. The war-premium men, the underwriters, the claimants for losses by captures made by the exculpated cruisers had not a shadow of right to call upon Great Britain or the United States for indemnity before the treaty of Washington was made; whatever right they have originated in the treaty.

When the United States called the attention of England to her disregard of her duties as a neutral, how did she propose to meet the question? What had the rights of corporations or war-premium men, the owners of property captured by exculpated cruisers, to do with that? When she said to Great Britain: "You have violated your duty as a neutral in the great civil contest, and I call you to an account, and for the violation of that duty you must respond or I will hold you accountable either by the laws of war or by the laws of peace, and it was determined that war should not be resorted to to settle this international claim, but invoking the great spirit of peace it was determined to arbitrate what? Any private right? Any individual claim? Anything that appertained to any citizen? No; but the great body at Geneva met for the purpose of arbitrating a great international claim made and preferred by one nation against another. They sat in the little neutral state of Switzerland, so that they might be beyond the moral pressure of the great powers that existed on the Continent, and where no fear of improper influence would be felt. Is it to be supposed that when Geneva was designated by the treaty of Washington as a suitable place for the great court to sit that it was selected because of the sanctity, the consequence, or the gravity of the claims of a dozen of American corporations for a few millions of dollars against Great Britain?

The very place selected, the circumstances, the surroundings, the dignity, the consequence attached to this proceeding all go to show to any mind that this was not a little claim of a few insurance agents or companies that this grand tribunal was called upon to decide. It was whether or not Great Britain by permitting certain cruisers that were named before the commission, certain cruisers designated, in the circumstances attending their departure from British ports had involved Great Britain in a violation of the law of nations. That was the question, and after that question was decided everything

else connected with it amounted to nothing; they were incidents. This question lay at the very threshold of duty on the part of the great court. After the tribunal decided that England was in fault it had to go a step further and ascertain what, if any, damages resulted to the United States from the failure of Great Britain to fulfill her neutral duties—toward whom? Certainly not the corporations or any description of private claimants, but toward the United States. England owed no duty to any person, corporation, or power in this matter except the United States.

I say here that the only question was whether the international law which regulated the obligations of Great Britain was violated or not, and the tribunal held that it was. Everything of importance before that tribunal in the shape of claims and papers and protests and schedules of ships and property was nothing more than the evidence introduced in support of the great national right. Here was the main demand, "You have violated your duty as a neutral, and I bring forth these papers to show that the fact is true;" and the claims of corporations and the claims of individuals that were presented there had nothing whatever to do with the main question except to sustain the allegation on the part of the United States that Great Britain was delinquent, that she had violated her duties as a neutral under the international code. Much stress has been laid on the fact that the Geneva tribunal did not hear evidence of loss arising from the enhanced cost of insurance. But is it not plain to the dull-est comprehension that when the court decided to give judgment for the full value of the one hundred and twenty-seven vessels destroyed by the three inculpated cruisers, as well as for cargoes, that it meant to remit to this Government the decision of all questions arising out of the conflicting interests and rights connected with the destroyed property?

To say that any of these claims constitute a substantive right before that tribunal would be to pervert the whole object of that august establishment which had no equal before it in the history of the world. What did they do? They found that three of the ships they enumerated, which they denominated inculpated cruisers, because of the circumstances attending their departure from British ports, were permitted to leave there in derogation of the laws of nations, and the tribunal held that Great Britain was responsible to whom? To the United States, who, as an equitable sovereign, was bound to put forth the claims of all its citizens without distinction. It was well enough for the court to look to the policies of insurance which covered the vessels and cargoes in order to determine the true value of the property destroyed, for this was the very best evidence of the fact, as it was created at a time when neither the owners of the ships nor underwriters contemplated indemnity from their own or the Government of Great Britain. But is it to be held because their policies were thus considered that the high international court presumed to decide that the insurers were entitled to the proceeds of the award in preference to other American citizens whom this Government was bound to protect?

They had nothing to do with mortgages, with conditional bills of sale, with policies of insurance on those captured ships, but after it was shown that Great Britain had not performed her duty with respect to these cruisers, that being the main question, evidence was taken to ascertain to what extent the damages went which resulted from the capture and destruction of the private ships. What did they find? They found that these three cruisers had captured on the high seas one hundred and twenty-seven vessels. Did the Geneva tribunal undertake to determine who were the owners of those vessels, whether they were subject to mortgages, to deeds of trust, to policies of insurance, or anything of the kind? No; but after the tribunal determined that the law of nations had been violated in the cases of these three cruisers, then, for the purpose of fixing as precisely as possible the amount of the damage which the defending nation would have to pay, they took evidence of the number, the nationality, and the value of the vessels destroyed. It was intended that a money compensation should be awarded, and some rule of damages had to be adopted. If the court intended that the underwriters should be paid their claims, why did it not say so? Why did it give judgment in favor of the United States, which was received in satisfaction of all the claims referred to the tribunal. Were not the war-premium claims referred to the court? The advocates of the corporations say they were.

I say they found there were one hundred and twenty-seven vessels carrying the flag of the United States branded with the stamp of national character, and that was all as we are informed by the record as far as it is possible to ascertain anything that they allowed. They allowed the value of those one hundred and twenty-seven ships and their cargoes as the amount of the liability of Great Britain, because of her violation of public law.

What had the individual owners to do there? What had the underwriters to do there? What had the war-premium people to do there? Nothing. Mr. Gladstone, on the floor of the House of Commons, declared that no individual claim had ever been decided by that august tribunal, and it would have been ridiculous to have supposed that the interest of two great states should have demanded such an exceptional action as that in order to settle the rights of a few American corporations.

But we have been told by those who take the opposite view that that court met to decide the rights of the underwriters, that their judg-

ment is binding upon this Government; and that we have no right, representing the sovereignty of the American people in the distribution of this fund, to go one step beyond what the Geneva tribunal determined with respect to the rights of individuals. I reassert that no individual rights were ever considered by that tribunal for any purpose of a substantial character. I say that whenever they were permitted to come before that court at all they came there merely as evidence to support the national claim. The plaintiff in that suit was the United States, and if they kept a record it would read: "The United States *vs.* Great Britain and Ireland." All the documents and papers were only evidences in support of the national right. Here is the judgment of the court after considering the evidence behind which we cannot go. It is a principle of law well known to every lawyer that after a cause is heard in a court of justice, whether equitable or legal, everything in the shape of testimony and argument merges in the judgment. It is the judgment or the verdict that settles the thing; and from that we are to determine the rights of the parties on the record. Now, what does this judgment say? It reads:

The tribunal \* \* \* awards to the United States the sum of \$15,500,000 in gold as the indemnity to be paid by Great Britain to the United States for the satisfaction of all the claims referred to the consideration of the tribunal.

All the claims referred to that tribunal, when she decided to pay in gross, she intended to leave to the power to whom the fund was paid the right to settle with their own citizens in any way she thought proper, but this judgment was in satisfaction not of the claims that were considered as the evidence by the tribunal merely, but of all claims that had been referred, no matter what their character or condition. It was to be in full satisfaction of the international demand, and then it was to be remitted to this Government to settle with her own citizens in any way she thought proper.

And this Government has already decided that these underwriters have no title to this fund. When Congress passed the act of 1874, under which more than half of the money was distributed, they decided that no insurance company had a right to share in the distribution of the fund unless it could show that the sum of its losses exceeded the sum received in premiums. That principle is settled, and it is not competent for us to unsettle it. All that had any right under it have been paid.

Where comes in the right of the insurance companies in this case? If they have no well supported claim the war-premium men are the only parties who are entitled to it, unless you determine to refund the money to Great Britain. It is pretended here that the doctrine of subrogation applies, and that in those cases where the underwriter has paid for the ship to the insured he has a right to come to Congress and claim the value of the property out of this fund. I say nobody who is familiar with our system of jurisprudence will deny the force and application of the doctrine of subrogation in common-law courts, but it never was intended to apply to any description of cases except those that implied a partial loss.

It never was intended to apply to a class of cases which from their nature could leave nothing in the event of loss. The ordinary commercial policy which is taken out when a man desires to insure his vessel carries with it an implication in every instance that it is possible for a partial loss to take place, and his rate of premium is regulated accordingly. If I had a ship about to go to the West Indies, loaded with cotton or grain, and made application for a policy of insurance, what is there in that individual contract beyond its expressed terms, which is implied, that if that vessel is shored and incurs damage beyond half her value, the owners shall have the right to abandon her and claim as for a total loss? And whatever is left of the wreck of the cargo or of the vessel after the underwriter pays the policy belongs to the insurer. That is true. It is not written upon the face of the contract, but it is just as distinctly implied from the nature of the transaction as though it was drawn out in express words.

It is in cases of that kind that the doctrine of subrogation has been applied, and only to those; and where, from the nature of the transaction there can be or could have been no partial loss, and the underwriter receives a premium corresponding to the character of the risk, then I say it is little less than absurdity both in reason and in law to contend that subrogation can exist in such a case. It is only, I say, where there is an implication of partial loss and where the premium is reduced correspondingly with it that the doctrine of subrogation applies, but where the underwriter, with full knowledge of the character of the risk, which in its nature involves the total destruction of the property, and which he knows must leave him nothing, charges a premium corresponding to that risk, there cannot in reason or in law under a contract of that kind be any subrogation; and that is the case here. Every one of these underwriters knew full well when they insured these ships that if destroyed at all the destruction would be total. They received compensation for that risk, and there never was any agreement expressed or implied on the part of the owner that any portion of the property in case of destruction should go to them; and still, in the face of this plain transaction, in the face of the law, clear as I conceive it must be, they now come forth and undertake to put their right upon the basis of an ordinary contract of insurance and claim as in case of a partial loss.

They insured against capture, and when this bill was under discussion at the last session of Congress I put this question to the hon-

orable Senator from Arkansas, [Mr. GARLAND,] who then spoke the rights of the underwriters. I asked him if one of these confederate cruisers, instead of having burned a merchant ship on the high seas bearing the American flag, (which was nothing but the exercise of a belligerent right,) had taken that ship into the port of Charleston or Savannah and had her condemned there as prize of war, even according to the authority that existed within the confederacy at that time, and she was condemned by that authority and sold to a neutral purchaser for value, whether after the war, the underwriter, having paid for the capture, could touch that property that was thus condemned under the doctrine of subrogation? I want any lawyer who believes in the doctrine of subrogation to tell me if in that case there would be any claim on the part of either owner or underwriter to that ship according to the recognized principles of public law? If a belligerent power, exercising all the authority of war—and it may exercise it just as a regular state that has been recognized as part of the family of nations—condemns a captured vessel and sells it and the underwriter pays for the capture, where is his subrogation and where is his right? What is the difference between condemnation and destruction at sea, in principle?

Instead of having condemned these ships in a confederate prize court, they were destroyed from necessity, because the blockade prevented the condemnation; but the very principle that upheld their destruction as a belligerent right would sustain the title of the purchaser had that condemnation taken place according to the course of the admiralty; and, in any view which you may take of this question, there never, in my judgment, has been a shadow of ground upon which to rest the claim of the underwriters to any portion of this fund.

Then the question is as to whether we, representing the sovereignty of the people and the States as a great equitable power, have authority under the judgment giving us this money, to say to whom it shall be paid. For one, I never have had the least doubt of it. I did not come here with any prepared speech, and I regret that I have not been able to put my thoughts upon this great subject in a more acceptable form. With respect to the claims of the owners of vessels destroyed by the exculpated cruisers, I have always thought that they stood on grounds of the highest equity, and ought to be paid. I admit the Government holds the fund in trust; but not a trust created at Geneva, for the court under the treaty had no right to make this Government a trustee for its own citizens. In no part of the treaty of Washington can such a power be found, either in expression or by implication.

Mr. BAYARD. Mr. President, I would not occupy time myself or ask the attention of the Senate on this subject were it not that I feel now as I always have felt in respect of the distribution of the Geneva award fund, that the character of the Government of the United States was involved in seeing that the execution of the trust reposed in it, a trust created upon the solicitation of the Government itself, should not fail.

It is an easy thing but not very pleasant to repeat arguments in this body. Nearly ten years ago from the very desk at which I speak, I rose to contribute my judgment as a Senator upon the distribution of this fund. The events connected with the tribunal at Geneva were then all fresh in our minds. The treaty of Washington had been debated and discussed at great length in the secret sessions of the Senate. It had been concluded and ratified, and Great Britain in obedience to the award had paid promptly and honorably the great sum of fifteen and a half million dollars into the Treasury of the United States, and the mode of payment was the transmission of bonds of this Government bearing 6 per cent. interest.

Why was that payment made? Was it made, as the Senator from Florida has just said, as a *solatium* for our wounded national honor? Was it made in response to any demands for a national claim? The records of that transaction at Geneva show as plainly as words can tell, that Great Britain scouted the idea of national responsibility to the Government of the United States for the prolongation of our civil war or for her default as a neutral. Why, sir, to have saddled Great Britain with the principle involved in what were known as the indirect claims, claims growing out of indirect losses caused by the prolongation of the war, claims growing out of the increased cost of the war, would simply have been to render the condition of Great Britain as a neutral infinitely more expensive and dangerous than that of a belligerent—for it would have made her liable for the results of a war in which she had taken no controlling part. Active belligerency would have been less costly than such neutrality.

When the claims for indirect losses, which we all understood had been abandoned during the conference of the high joint commission, were supposed to be presented, the picture was drawn of the leading commissioner upon the English side, shutting up his dispatch-box in the session of that commission when such demand was made and saying "negotiation stops and the case ends here," but when they were revived at Geneva and when the American agent placed the indirect claims before the tribunal, before proceeding to consider any others, they paused and passed the following order:

On the 19th of June, 1872—

Preliminary to their examination of the negotiable merits of the real claims in this case—

the arbitrators declared "that after the most careful perusal of all that has been urged on the part of the Government of the United States in respect of the claims for—

"First. The losses in the transfer of the American commercial marine to the British flag;

"Second. The enhanced payment of insurance—

The war-premium claims, so called to-day—

"Third. The prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion, they have arrived individually and collectively at the conclusion that these claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award."

And on the 25th day of June, the telegraph having conveyed that deliberate and unanimous finding of that tribunal to the Government of the United States, the agent of the United States communicated to the tribunal that the declaration of the tribunal was accepted by the President of the United States as determinative of their judgment. Now, in the face of these facts, proclaimed then without denial, proclaimed to-day without denial, no one in this Senate or out of it will rise and deny that such was the history of these events, such was the history of the presentation of these claims, and such was their determination by the tribunal to whom the Government of Great Britain and the Government of the United States submitted their relative claims and liabilities under the treaty of Washington and four new rules adopted in its provisions.

Sir, there was not then and there is not to-day even a flavor of national claims in the demand made by the United States, or in the award made by the arbitrators under the treaty. The claims presented and considered were the claims of individual citizens of the United States. They were made for vessel property and merchandise destroyed upon the high seas by the Alabama and her kindred cruisers known, to use the language of that treaty, generically as the Alabama claims. They were made to compensate individuals; they were expressly made not to compensate the American people as a nation. The United States hold and received that money solely and simply as the trustees of those in whose name they put forward their claim to compensation. If that money is to be diverted, if it is to pass to another purpose than that upon which the ear-mark was set, there is a maladministration of the trust and there is a default upon the part of the trustee which never shall be accomplished unless it be against my vote and protest.

No, sir; no, sir. The claims presented by the agent of the United States which were entertained by the arbitrators were restricted to such as were founded in fact and law for individual citizens. A vessel was destroyed by one of the Confederate States cruisers. The question was, was the British Government liable for that destruction or not? Grant the fact for the purpose of the argument that she was found to be liable, who was to receive the money? the owner of the ship who had collected his indemnity from the insurance company, or the insurance company that was subrogated to his right? What is the right of subrogation? Is it an arguable one? Is it a technical one? Is it a statutory one? Neither. It has been termed under the civil law a natural right; it has been recognized since the doctrine of insurance was ever known among men. Every tribunal in every land has recognized the right of the insurer to be subrogated to the rights of the insured when he has made good his loss. It is not a question of technicality; it is a question which has been termed a question beyond technicality. In all the cases that have arisen in the United States upon the subject, whether in New York, Pennsylvania, Louisiana, or the Federal courts, there has been not only no difference among the courts, but not even a dissent by any judge in respect of the rights of the insurer in the case of abandonment, to succeed to every possible claim of the assured upon payment of the amount insured, not as an equity, but as a natural right.

Well, Mr. President, after the arbitrators had dismissed, and after the authorities of the United States had accepted the grounds of the dismissal, of all claims of a national character, after the idea of the *solatium* to national honor or the cost to the Government of the prolongation of the war or the enhanced cost of insurance, after all those things had been expressly and unanimously thrown aside, they proceeded to consider what was the basis upon which the tribunal should award and that Great Britain should pay certain moneys into the hands of the United States authorities.

Mr. HOAR. May I ask the Senator from Delaware—

Mr. BAYARD. I would rather get through and then I will answer my friend. I shall not be long. I would rather not be interrupted now. I would rather state my views of this important transaction and then I will listen to my friend with pleasure, and reply to him if I am able.

On the 23d of August, 1872, the commission having brushed aside all theory of indirect claims, of national claims, of claims growing out of the prolongation of the war or the increased cost of the war, whether by enhanced rates of insurance or otherwise, proceeded to try these individual demands which had been scheduled and filed upon the suggestion of the Government of the United States in the Department of State, had been presented to that Department under public invitation during a period of eight years, because from 1863 all merchant owners of vessels and property destroyed at sea had brought to their Government their claims for the alleged delinquency and liability of Great Britain in connection with the deprivations of the Alabama and her sister ships. They had been regularly filed. Where the property was uninsured, the owner filed the claim; where

the vessel had been insured, the insurer filed the claim; and the Government, recognizing the rules of law, accepted the claim of the insurer as valid as that of the assured if he had paid and presented it; and those were the claims for one hundred and ninety-four vessels and their cargoes, vessels by name, cargoes by description, with the owners or the insurers, which were laid before the tribunal at Geneva. And as stated in a report made to the House of Representatives—

As a matter of fact therefore our Government presented a list of private injuries with the proof to support them, and recovered for them. They did indeed present national claims also. These national claims were disallowed; and it was only after such disallowance an award was made, which as stated equaled the mean valuation by the respective parties of such private claims as were allowed with interest thereon.

My friend from Florida spoke of the case always as that of the United States against Great Britain. With due respect to him I shall deny it. The claims of the United States as a nation against Great Britain were denied and rejected instantly by the arbitration to whom we submitted them, before any award was made or evidence received. The claims presented and admitted were by the United States for the use of A, B, C, and D, the beneficiaries, which were before that tribunal *nominatim* and by description.

The summary of the losses for which claim was urged gave the name of every vessel destroyed, and the name of the cruiser which destroyed her. The name of the claimant, whether as an owner or an insurer of vessel or cargo or both—all this is of record.

On the 23d of August the tribunal decided that Great Britain had not failed to fulfill any of the duties set forth in the three rules mentioned in the treaty as to certain vessels.

What were those three rules? They may be shortly described as modifications of the pre-existing international law in respect to neutral obligations. I do not doubt that for purposes perhaps of a very high, noble, and philanthropic nature, Great Britain did consent to the alteration of the pre-existing rules of neutral obligation, and the United States accepted those alterations, and only because the pre-existing rules had been altered was there any recovery from Great Britain at all; in other words, those new rules were made to fit the case, they were meant to give Great Britain an honorable opportunity of soothing the angry and indignant feeling to which the loss of property, and her interference, if you may so call it, in a domestic quarrel between the American States had given rise. But so it was, and here let me say in passing that I very much fear that in the adoption of those rules as to neutral obligation there will come a day when, if not the men of this generation, those who are to succeed us will find that we have imposed upon neutral powers a burden and liability heavy indeed to bear.

We have enlarged by the treaty of Washington and our claims thereunder upon Great Britain the duty of neutrals; and, pray, what are the Government or the people of the United States? We are the great neutral power of the world. Peace is our policy; peace is our duty; peace is our necessity; peace ought to be our dignity and glory; and yet we have consented to rules, we intending always to live within ourselves, anchored by Providence at a distance from the ambitions and strifes of older, less contented, and more thickly settled countries—we have by new rules laid upon ourselves a burden of obligation of which I say it behooves us well to consider the consequences. But we did it, and so under the three new rules adopted in the treaty of 1871, what did the Geneva arbitrators decide?

On the 23d of August, the tribunal decided that Great Britain had not failed to fulfill any of the duties set forth in the three rules mentioned in the treaty as to the cruisers Sumter, Nashville, Retribution, Emily Fisher, Georgia, Tallahassee, and Chickamauga, and that she had failed as to the cruisers Alabama and Shenandoah, but only for the acts committed by the Shenandoah after her departure from Melbourne, on the 18th of February, 1865.

To a certain class of these claims were to be applied the canons thus laid down, the rules of measurement thus laid down. Destructive by certain vessels, the exculpated cruisers, were not to be considered, only those by other named vessels were to be regarded, and was England to pay for. It was under the terms of that award that the Government of the United States got that money. Now tell me that, having received the money, she received it for A and B and C and D and not for those who represented the rest of the alphabet, can we undertake to change the terms of our own submission and violate the precise language and instruction of the award? Is there a court of equity, is there a court of law in civilization that would protect a trustee who stepped directly outside of the line of instructions of the submission to arbitrators and of the award? Yet that is what the bill proposes in this case to do.

I may be told that it may be in the power, that is to say within the view of the Senate of the United States, to do a broad and handsome and liberal thing. God knows if I could have my wish, all the Americans who suffered indirectly by this war would have been remunerated. But can we and shall we, is it possible for us having due regard to that spirit of law, to that spirit of honor which is locked up in law—can we undertake to overstep the direction of this award? Can we undertake to divert the moneys given to us for one purpose and bestow them for another simply because we think, in the abstract, that second purpose may be meritorious? No, sir; no. Lord Camden long ago declared that the discretion of the judge was

the law of tyrants, and the discretion of a Senate or the discretion of the Government will be the law of tyrants. Being law-givers how can we set an example of violation of law, and disregard of its plainest principles?

My friend from Arkansas has moved an amendment for which I shall be glad to vote, because I think it is simply the execution of our trust under this award and under this treaty. But failing that he informs me that he has another amendment to which I give my ready assent. It is that these parties, war-premium men, the victims of the exculpated cruisers, every man who has or fancies he has a claim against Great Britain growing out of these depredations, shall go before the courts of the country and make his claim under the terms of the treaty under the award of the arbitrators at Geneva and see what the law says on this subject as defined by the arbitration of judicial deliberation.

I am willing for that. I have voted for that, voted for bills that I believed would produce that result, from the first to the last. I have felt in this case all the way through as if I was upon the bench deciding the rights of private suitors to moneys which were held partly under my control. It is in that spirit I speak to-day; it is in that spirit first and last that I have approached this case. This that I say to-day, short, incomplete, unpremeditated, is but a repetition of arguments that have been better made by others in the past. I can recall well when that honored friend of us all, the man whose absence from the public councils all to-day deplore, Allen G. Thurman, of Ohio, stood here upon the strong basis of law to insist that we should, by every obligation known to us as constitutional lawyers and known to us as law-abiding citizens and known to us as men jealous of the honor and reputation of our country, execute that award in accordance with the submission to which we agreed in advance.

The arguments made by him and others, the arguments to which I made my own feeble contribution at that time, not only have not lost their force with me, but they have gained as time has gone on. I have read the argument of my friends from Massachusetts and from Maine. I comprehend fully how agreeable it would be for them upon a broad, upon a vague, and I must say upon a very loose construction of the award of the tribunal at Geneva, to give this money to those men of their own locality with whom they so heartily sympathize, and in which sympathy I fully concur. But that is not the question.

Senators, if there be doubt—and the doubt is as I make no question a perfectly honest doubt, sincerity upon your part as there is upon ours—let us refer the case, let us send it to that branch of our Government which is to decide almost everything in the Government, the rights of States and the rights of persons and the rights of property; let it go to the judicial branch; let them try whether you are right or whether we are right in our construction of duty under this treaty and this award.

I cannot hope, judging from the former action of the Senate, that the amendment of my friend from Arkansas will prevail. I think it ought to, and I shall vote for it; but after it shall have failed, as I fear it may, then I hope he will make the proposition which after all is the one that I think we can fairly meet upon. If you who differ from us as to this, who claim that you have an absolute control and discretion over this fund unfettered by the language of the submission or by the language of the arbitrators themselves, if you say you have taken this as a sovereign power and that your sovereign will is its absolute law, (in which we do not concur,) then being confident of this right, do not fear to submit your views to the judicial branch of your own Government.

Surely you wish nothing but law, for this is a Government of law; and will you refuse to allow this question to be passed upon by the branch of the Government to whom the interpretation of laws is submitted? Why may not this be? I profess to you that if I could see my way clear to pay the owners of these vessels, moderate as their claim is, just, and resting upon sympathy so strong—I feel for them strongly, I know many of them; I am sincerely and simply anxious for their relief; but it is not for me to give that relief at the cost of a high public duty.

Now, if there be this question as to what that duty is, why not let it be decided by the judicial branch? It is a legal right. I would not stand on technicalities. Let them go before the courts with the case on its merits, in the broadest and strongest terms on the merits; and the case will be the facts that history has written; the case will be the war; the case will be the claims; the case will be the record of these claims; the case will be the treaty; the case will be the submission; and the case will be the award of the arbitration to which was submitted these claims. That makes the case.

If the war-premium men, if the victims of the exculpated cruisers so-called shall be shown to have a right in law, no man will rejoice in it more than myself; but I cannot and I will not consent that there should be what is to me so clear a perversion of a public duty as to take the money asked for by us in the name of one individual and for one purpose and deliberately devote it to others whose claims have been duly presented and expressly disallowed by the arbitrators to whom they were submitted.

Now, one word more. Suppose—the supposition may be violent—that there cannot be proven claims enough to take this fund and it

is said there is a balance. I think the question was asked, what is to become of the balance? What becomes of the balance? If there be a balance of that money to which the owner cannot show his right under the treaty, under the award, it must go back in honor to the hand that paid it. We had consented to the abandonment of our claims to any dollar of that money as a nation, and I say that if it remains there for the use of the American people as a nation, it remains there as a stain, and it shall be against my vote.

Mr. CALL. Mr. President—

Mr. BECK. The Senator from Florida I understand wishes to address the Senate and does not care to do so to-night. Therefore, I move an executive session.

Mr. GARLAND. Before that motion is put I should like to offer now for the purpose of having printed, in case the amendment now pending should not be adopted, an amendment in the nature of a substitute to send the whole matter to the Court of Claims, so that Senators may have it before them to-morrow.

The PRESIDENT *pro tempore*. The amendment will be received and ordered to be printed.

Mr. HOAR. I desire to suggest that there are several very important matters pressing for the consideration of the Senate, and I hope we may have a vote on this bill to-night.

Mr. BECK. The Senator from Florida has just announced his desire to address the Senate on the subject. The Senator from Massachusetts has had an hour and a half. The Senator from Florida desires to speak in the morning.

Mr. HOAR. I did not speak an hour and a half.

Mr. BECK. The Senator from Florida announced his desire to speak to-morrow morning. Thereupon I moved an executive session. Of course the Senator from Massachusetts can force the Senator from Florida to go on, but I do not think anything will be gained by that. I have moved that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. Will the Senator withdraw that motion for a moment, so that the Chair may lay before the Senate some communications from the President of the United States?

Mr. BECK. Certainly, sir.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following messages from the President of the United States; which were referred to the Committee on Appropriations, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith a communication from the Secretary of the Interior, of the 18th instant, with accompanying papers, submitting the draft of a proposed clause for insertion in one of the pending appropriation bills to provide for the payment for improvements made by certain settlers on the Round Valley Indian reservation in California, as appraised under the act approved March 3, 1873. The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, May 22, 1882.

*To the Senate and House of Representatives:*

I transmit herewith a communication from the Secretary of the Interior, dated 18th instant, and accompanying report from the Commissioner of Indian Affairs, relative to the necessity for buildings at the Mescalero agency, New Mexico, and for an appropriation for the support, civilization, &c., of the Apaches at the Mescalero and Jicarilla agencies, together with an estimate for the same, in the form of a proposed clause for insertion in the sundry civil bill now pending for consideration in committee.

The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, May 22, 1882.

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

*To the Senate and House of Representatives:*

I transmit herewith a letter from the Secretary of War, dated the 18th instant, and accompanying papers from the Acting Chief Signal-Officer, representing the necessity for a special appropriation being made, not later than the 1st of June, proximo, for the purpose of dispatching a vessel, with men and supplies, for the relief of the expedition which was last year sent to Lady Franklin Bay, Grinnell Land.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, May 22, 1882.

#### AMENDMENT TO APPROPRIATION BILL.

Mr. DAWES submitted an amendment intended to be proposed by him to the bill (H. R. No. 5559) making appropriations for the support of the Army for the fiscal year ending June 30, 1883, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

#### EXECUTIVE SESSION.

Mr. BECK. I renew my motion.

The PRESIDENT *pro tempore*. The Senator from Kentucky 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 eighteen minutes spent in executive session the doors were reopened, and (at four o'clock and fifty-eight minutes p. m.) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, May 22, 1882.

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

The Journal of Saturday last was read and approved.

#### CORRECTION.

Mr. HALL. The record of Saturday's proceedings records me as having been absent on that day when the roll was called. That is incorrect. I was here and answered to my name twice.

The SPEAKER. The Clerk informs the Chair that the correction has been made in the Journal.

Mr. HALL. I was present and paired with Mr. TALBOT, of Maryland; but I answered each time there was a call of the House.

#### EVENING SESSIONS.

Mr. ROBESON. I rise to make a privileged report from the Committee on Rules of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

*Resolved*, That on Tuesdays and Thursdays the House at five o'clock in the afternoon, without further orders, will take a recess until eight o'clock in the evening of the same day.

The resolution was adopted.

Mr. ROBESON 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.

#### ORDER OF BUSINESS.

Mr. BURROWS, of Michigan. I call for the regular order.

Mr. RANDALL. I have a resolution to report from the Committee on Rules.

Mr. BURROWS, of Michigan. Is it a privileged report?

Mr. RANDALL. I do not know that it is privileged, but I have been instructed by the committee to report it to the House.

The SPEAKER. The resolution will be read.

#### INDEX OF THE JOURNALS OF CONGRESS.

Mr. RANDALL. I am instructed by the Committee on Rules to report the resolution which I send to the Clerk's desk.

The Clerk read as follows:

*Resolved*, That the Committee on Rules are hereby authorized to select and employ a proper person to assist in the preparation of a general index of the Journals of Congress under the resolution of June 10, 1878, at a rate of compensation not to exceed \$2,000 per annum, to be paid out of the contingent fund of the House until an appropriation shall be made.

Mr. RANDALL. If there be no objection to the consideration of that resolution at this time, I will state that under a resolution of the House adopted June 10, 1878, there is a person now engaged upon a general index of the Journals of Congress from the beginning of the Government. It is proposed to facilitate the completion of that work by giving the gentleman heretofore appointed charge of the subjects, and the one to be appointed under this resolution charge of the *personnel* of the compilation, so that the whole work may be done in less time. It will not involve any additional expenditure of money, for by this subdivision two persons will be able to do the work in about half the time that it would require one person to do it.

Mr. HAMMOND, of Georgia. I would like to ask the gentleman a question.

Mr. RANDALL. Certainly.

Mr. HAMMOND, of Georgia. What objection would there be to amending this resolution so as to include the indexing of the reports made by committees of the House and of the Senate? It seems to me that an index of that sort would be very valuable.

Mr. RANDALL. That work is already done by the index clerk of the House, and I presume by an officer of the Senate in so far as Senate reports are involved.

Mr. HAMMOND, of Georgia. Has it been published?

Mr. RANDALL. I am informed by the Journal clerk that it has been published by the House as to House reports.

Mr. HAMMOND, of Georgia. I did not know there was such a work.

Mr. RANDALL. I agree with the gentleman from Georgia [Mr. HAMMOND] as to the importance of such an index, because a great safety of Congress in connection with subjects that are renewed for consideration is in the reports that have before been made upon those subjects.

Mr. HAMMOND, of Georgia. If that work has already been done I do not wish to offer an amendment; but I did not know that it had been done.

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.

#### ORDER OF BUSINESS.

Mr. BURROWS, of Michigan. I now call for the regular order.

Mr. CALKINS. And as a question of privilege I call up the con-

tested-election case of Mackey vs. Dibble, and ask for its consideration.

Mr. RANDALL. Does the Speaker recognize that as a privileged motion to interrupt the regular order—the call of the States for the introduction of bills?

The SPEAKER. The Speaker does.

Mr. RANDALL. Then, as this may be a protracted struggle, I move, in order to provide for a rest, that when the House adjourns to-day it adjourn to meet on Wednesday next.

Mr. CALKINS. That involves a change of the rules, and must necessarily lie over one day.

Mr. RANDALL. It is in harmony with the rules, both in letter and in spirit.

Mr. CALKINS. I make the point of order that the motion must lie over one day.

The SPEAKER. The Chair thinks the motion does not conflict with the rules.

Mr. RANDALL. I will state very frankly my object is, before we shall test whether there is a quorum on the other side—

Mr. CALKINS. It is immaterial to me what the purpose of the gentleman is.

Mr. RANDALL. Then I will not state it.

Mr. CALKINS. If the gentleman has the right to submit the motion, I ask that a vote be had upon it.

The SPEAKER. The Chair thinks that the motion is in order.

The question being taken on the motion of Mr. RANDALL, there were—yeas 45, noes 61.

Mr. RANDALL. I call for the yeas and nays. I desire to see whether there is a quorum on the other side.

The yeas and nays were ordered.

The question was taken; and there were—yeas 82, nays 111, not voting 98; as follows:

YEAS—82.

Table listing names of members who voted YEAS: Aiken, Atherton, Atkins, Beach, Berry, Blackburn, Bliss, Blount, Buchanan, Buckner, Cabell, Caldwell, Carlisle, Cassidy, Clark, Clements, Cobb, Cook, Cox, Samuel S., Cox, William R., Cravens, Culberson, Curtin, Davidson, Davis, Lowndes II., Dugro, Dunn, Ellis, Ermentrout, Buchanan, Ewins, Finley, Flower, Forney, Fulkerson, Garrison, Geddes, Gunter, Hammond, N. J., Hatch, Hewitt, G. W., Hoblitzell, Hoge, Holman, Hooker, Jones, James K., Kenna, Klotz, Le Fevre, Manning, Matson, McKenzie, McMillin, Mills, Money, Morrison, Mosgrove, Muldrow, Mutchler, Oates, Phelps, Randall, Reagan, Robertson, Rosecrans, Shackelford, Shelley, Singleton, Jas. W., Singleton, Otho R., Sparks, Speer, Springer, Stockslager, Turner, Oscar Tyler, Warner, Wellborn, Wheeler, Whitthorne, Williams, Thomas Wilson, Wise, George D.

NAYS—111.

Table listing names of members who voted NAYS: Aldrich, Anderson, Bayne, Belford, Brewer, Briggs, Browne, Buck, Burrows, Jos. H., Burrows, Julius C., Butterworth, Calkins, Campbell, Candler, Cannon, Carpenter, Caswell, Chace, Houk, Colerick, Crapo, Cullen, Cutts, Darrall, Davis, George R., Dawes, Deering, De Motte, Dezendorf, Dingley, Marshall, Dunnell, Dwight, Farwell, Sewell S., Fisher, Ford, George, Godshalk, Grout, Guenther, Hall, Harris, Benj. W., Haseltine, Haskell, Heilman, Healderson, Hepburn, Houk, Humphrey, Jacobs, Jadwin, Jones, George W., Jones, Phineas, Jorgensen, Kasson, Ketcham, Lacey, Lord, Marsh, McClure, McCoid, McKinley, Miles, Miller, Moore, Morey, Neal, Norcross, O'Neill, Orth, Pacheco, Page, Parker, Paul, Payson, Peelle, Peirce, Pound, Prescott, Reed, Rice, Theron M., Rice, William W., Rich, Ritchie, Robeson, Robinson, Geo. D., Robinson, James S., Russell, Ryan, Scranton, Shultz, Skinner, Smith, A. Herr, Smith, Dietrich C., Spaulding, Spooner, Steele, Stone, Strait, Taylor, Thomas, Thompson, Wm. G., Townsend, Amos, Updegraff, J. T., Updegraff, Thomas Urner, Van Horn, Van Voorhis, Wait, Ward, Webber, West, Willits.

NOT VOTING—98.

Table listing names of members who did not vote: Armfield, Barbour, Barr, Belmont, Beltzhoover, Bingham, Black, Blanchard, Bland, Bowman, Bragg, Brumm, Camp, Chapman, Clardy, Converse, Cornell, Covington, Crowley, Deuster, Dibble, Dibrell, Dowd, Errett, Farwell, Chas. B., Frost, Gibson, Hammond, John, Hardenbergh, Hardy, Harmer, Harris, Henry S., Leedom, Lewis, Hazelton, Herbert, Herndon, Hewitt, Abram S., Hill, Hiscock, Horr, House, Hubbell, Hubbs, Hutchins, Joyce, Kelley, King, Knott, Latham, Leedom, Lewis, Lindsey, Lynch, Martin, Mason, McCook, McLane, Morse, Moulton, Murch, Nolan, Pettibone, Phister, Ranney, Ray, Rice, John B., Richardson, D. P., Richardson, Jno. S., Robinson, Wm. E., Ross, Scales, Scoville.

Table listing names of members: Shallenberger, Sherwin, Simonton, Smith, J. Hyatt, Stephens, Talbot, Thompson, P. B., Tillman, Townshend, R. W., Tucker, Turner, Henry G., Upson, Valentine, Vance, Van Aernam, Wadsworth, Walker, Washburn, Watson, White, Williams, Chas. G., Willis, Wise, Morgan R., Wood, Benjamin, Wood, Walter A., Young.

So the motion of Mr. RANDALL was not agreed to.

The following pairs were announced:

- Mr. CROWLEY with Mr. NOLAN.
Mr. CORNELL with Mr. BLACK.
Mr. SCALES with Mr. JOYCE.
Mr. CAMP with Mr. HARDY.
Mr. SHALLENBERGER with Mr. MOULTON.
Mr. LINDSEY with Mr. DIBRELL.
Mr. BRAGG with Mr. POUND.
Mr. STEPHENS with Mr. FARWELL of Illinois.
Mr. HAWK with Mr. TOWNSEND of Illinois.
Mr. LATHAM with Mr. HERR.
Mr. PHISTER with Mr. WASHBURN.
Mr. COX, of North Carolina, with Mr. WALKER.
Mr. MARTIN with Mr. HARMER.
Mr. RANNEY with Mr. TUCKER.
Mr. SCOVILLE with Mr. VAN AERNAM.
Mr. RUSSELL with Mr. SPEER.
Mr. HILL with Mr. ROSS.
Mr. HARDENBERGH with Mr. WADSWORTH.
Mr. HUBBS with Mr. VANCE.
Mr. KNOTT with Mr. WHITE.
Mr. KETCHAM with Mr. HUTCHINS, reserving the right to vote to make a quorum.

- Mr. SHERWIN with Mr. THOMPSON of Kentucky.
Mr. VALENTINE with Mr. BELMONT.
Mr. DEUSTER with Mr. WILLIAMS of Wisconsin.
Mr. BLANCHARD with Mr. LEWIS.
Mr. YOUNG with Mr. LEEDOM.
Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York.

Mr. BRUMM with Mr. WISE of Pennsylvania.
Mr. WHITE. I am paired with my colleague, [Mr. KNOTT,] but reserved the right to vote when necessary to make a quorum; and if there is a quorum without my vote I will withdraw it; otherwise, I will not.

Mr. FISHER. From a telegram received from my colleague [Mr. WATSON] we learn that he is detained at home by the illness of his brother, who is not expected to live during the night. In justice to my colleague, who is absent without excuse, I make this statement.

The vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced the passage of the following bills; in which concurrence was requested:

- A bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes; and
A bill (S. No. 1608) authorizing the Texas and Saint Louis Railway Company to build certain bridges in the State of Arkansas.

ORDER OF BUSINESS.

Mr. CALKINS. I will now call up the contested-election case of Mackey vs. Dibble, and ask for its present consideration.

Mr. RANDALL. I raise the question of consideration.

The SPEAKER. The question is, Will the House now proceed to the consideration of the contested election of Mackey vs. Dibble?

Mr. RANDALL. We may as well have the yeas and nays at once. The yeas and nays were ordered.

The question was taken; and there were—yeas 113, nays 2, not voting 176; as follows:

YEAS—113.

Table listing names of members who voted YEAS: Aldrich, Anderson, Bayne, Brewer, Briggs, Browne, Buck, Burrows, Julius C., Butterworth, Calkins, Campbell, Candler, Cannon, Carpenter, Caswell, Chace, Houk, Colerick, Crapo, Cullen, Cutts, Darrall, Davis, George R., Dawes, Deering, De Motte, Dezendorf, Dingley, Dunnell, Dwight, Farwell, Sewell S., Fisher, Ford, George, Godshalk, Grout, Guenther, Hall, Harris, Benj. W., Haseltine, Haskell, Hazelton, Heilman, Hepburn, Houk, Humphrey, Jacobs, Jadwin, Jones, George W., Jones, Phineas, Jorgensen, Kasson, Kelley, Lacey, Lord, Lynch, Marshall, McClure, McCoid, McKinley, Miles, Miller, Moore, Morey, Norcross, O'Neill, Orth, Pacheco, Page, Paul, Payson, Peelle, Peirce, Pound, Prescott, Reed, Rice, John B., Rice, Theron M., Rice, William W., Rich, Ritchie, Robeson, Robinson, Geo. D., Robinson, James S., Russell, Shultz, Skinner, Smith, A. Herr, Smith, Dietrich C., Spaulding, Spooner, Steele, Strait, Taylor, Thomas, Thompson, Wm. G.

Townsend, Amos	Urnner,	Ward,	Willits.
Tyler,	Van Horn,	Webber,	
Updegraff, J. T.	Van Voorhis,	West,	
Updegraff, Thomas	Wait,	White,	

## NAYS—2.

Cox, Samuel S. Neal.

## NOT VOTING—176.

Aiken,	Davis, Lowndes H.	Joyce,	Seoville,
Armfield,	Deuster,	Kenna,	Seranton,
Atherton,	Dibble,	Ketcham,	Shackelford,
Atkins,	Dibrell,	King,	Shallenberger,
Barbour,	Dowd,	Klotz,	Shelley,
Barr,	Dugro,	Knott,	Sherwin,
Beach,	Dunn,	Ladd,	Simonton,
Belford,	Ellis,	Latham,	Singleton, Jas. W.
Beltmont,	Ermentrout,	Leedom,	Singleton, Otho R.
Beltzhooover,	Errett,	Le Fevre,	Smith, J. Hyatt
Berry,	Evins,	Lewis,	Sparks,
Bingham,	Farwell, Chas. B.	Lindsey,	Speer,
Black,	Finley,	Manning,	Springer,
Blackburn,	Flower,	Martin,	Stephens,
Blanchard,	Forney,	Mason,	Stockslager
Bland,	Frost,	Matson,	Stone,
Bliss,	Fulkerson,	McCook,	Talbott,
Blount,	Garrison,	McKenzie,	Thompson, P. B.
Bowman,	Geddes,	McLane,	Tillman,
Bragg,	Gibson,	McMillin,	Townshend, R. W.
Brumm,	Gunter,	Mills,	Tucker,
Buchanan,	Hammond, N. J.	Money,	Turner, Henry G.
Buckner,	Hardenbergh,	Morrison,	Turner, Oscar
Cabell,	Hardy,	Morse,	Upton,
Caldwell,	Harmer,	Mosgrove,	Valentine,
Camp,	Harris, Henry S.	Moulton,	Vance,
Carlisle,	Hatch,	Muldrow,	Van Aernam,
Cassidy,	Hawk,	Mureh,	Wadsworth,
Chapman,	Henderson,	Mutehler,	Walker,
Clardy,	Herbert,	Nolan,	Warner,
Clark,	Herndon,	Oates,	Washburn,
Clements,	Hewitt, Abram S.	Parker,	Watson,
Cobb,	Hewitt, G. W.	Phelps,	Wellborn,
Colerick,	Hill,	Phister,	Wheeler,
Converse,	Hiscock,	Randall,	Whitthorne,
Cook,	Hoblitzell,	Reagan,	Williams, Chas. G.
Cornell,	Hoge,	Richardson, D. P.	Williams, Thomas
Cox, William R.	Holman,	Richardson, Jno. S.	Willis,
Covington,	Hooker,	Robertson,	Wilson,
Cravens,	Horr,	Robinson, Wm. E.	Wise, George D.
Crowley,	House,	Rosecrans,	Wise, Morgan R.
Culberson,	Hubbell,	Ross,	Wood, Benjamin
Curtin,	Hutchins,	Ryan,	Wood, Walter A.
Davidson,	Jones, James K.	Scales,	Young.

During the roll-call the following additional pair was announced from the Clerk's desk.

Mr. BINGHAM with Mr. BELTZHOOVER.

Mr. CALKINS. I ask that the reading of the names be dispensed with.

Mr. RANDALL. I object.

The vote was then announced as above recorded.

The SPEAKER. One hundred and thirteen in the affirmative and two in the negative. The ayes have it.

Mr. RANDALL. I make the point that no quorum has voted.

The SPEAKER. The gentleman from Pennsylvania makes the point that no quorum has voted.

Mr. CALKINS. Before moving that there be a call of the House I desire to submit a proposition to the gentleman from Pennsylvania, [Mr. RANDALL,] in charge of the other side, and it is that we enter upon the debate of this contested-election case with the understanding there shall be no vote to-day.

Mr. RANDALL. As a counter proposition I suggest we have a call of the States for bills for reference and that then we shall proceed to the consideration of business provided for to-day under a suspension of the rules, which is the business coming from the Committee on the District of Columbia.

Mr. CALKINS. Mr. Speaker, of course the counter proposition will be met in a spirit of fairness.

Mr. RANDALL. Certainly.

Mr. CALKINS. If the gentleman will say, after the call of States and Territories, and the transaction of business of the character to which he refers to-day, that to-morrow there will be no further obstruction to the consideration of the case which I have called up, or at all events to entering upon the discussion of it, there will be no objection.

Mr. RANDALL. I have no right to bind anybody on this side of the House but myself, and will only say to the gentleman from Indiana that "sufficient unto the day is the evil thereof."

Mr. CALKINS. But the gentleman can certainly say, in that spirit of fairness which usually characterizes him, whether he is in favor of proceeding with the debate on this subject after the conclusion of the business to which he has referred without further delay.

Mr. RANDALL. I am always in favor of proceeding with business of a public character.

Mr. CALKINS. The proposition which I have submitted is of a public character.

Mr. RANDALL. Let us be frank with each other. I do not expect to accede to the proposition of the gentleman myself, nor do I hear anybody on this side who seems inclined to accede to it.

Mr. CALKINS. Then I understand that if we should go on to-

day with the business to which the gentleman has referred, we are to be met hereafter with the same obstruction that we are now met with in the consideration of this case?

Mr. RANDALL. I should be gratified if the gentleman would go on with the public business.

Mr. CALKINS. But after that business to which the gentleman refers has been concluded, are we to understand that the same spirit of obstruction will be maintained?

Mr. RANDALL. I have already said that I have no right to speak for anybody but myself. I submit to the gentleman from Indiana, in the interests of the public business, that we proceed to consider that character of business which is assigned for to-day under the rules.

Mr. CALKINS. In reference to that suggestion, Mr. Speaker, I do not concede that there can be any higher question of privilege or any business of a more important character than the determination of such a case as that with which we are now confronted. The right of a member to a seat upon this floor is a question of the very highest privilege that can be presented.

Mr. RANDALL. We do not agree that a case of that kind is presented here, or can possibly be raised upon forged testimony or testimony which is alleged to have been forged.

Mr. CALKINS. That is very true; and if the gentleman from Pennsylvania will show that to be a fact I am satisfied there are no gentlemen on this side of the House who would not be perfectly willing to agree with him in denouncing such a proceeding.

Mr. RANDALL. If you will read the report of the minority of the committee you will see for yourself.

Mr. CALKINS. That does not prove the fact. I have suggested to the gentleman that the case be discussed now, and such questions can then be considered. The gentleman from Pennsylvania, however, has not acceded to the proposition which I have made in all fairness, and therefore, Mr. Speaker, I demand a call of the House.

The SPEAKER. Before that the Chair desires to submit to the House certain requests of members.

## LEAVE OF ABSENCE.

Mr. WISE, of Virginia. I ask leave of absence of the House for four days on account of important business which demands my attention.

Mr. MILLER. I object.

The SPEAKER. Objection being made, the question is, Will the House grant the leave of absence requested.

The question was taken; and the Speaker decided that by the sound the "ayes" had it.

Mr. MILLER. I demand a division.

Mr. HAZELTON. There may be some special reason for granting the leave of absence.

Mr. RYAN. Let the gentleman state it.

Mr. WISE, of Virginia. I have a very important engagement in Charlestown, West Virginia, which I am under obligation to keep to-morrow. It is a murder trial in which I have been engaged for about six months, and therefore I desire leave of absence from the House for a few days.

Mr. MILLER. I have business at home in our courts, which are now in session, that ought to be attended to. I shall object to any leave of absence except in case of sickness.

The SPEAKER. The question is, Will the House grant the leave of absence?

The House divided; and there were—ayes 102, noes 5.

So (no further count being demanded) leave of absence was granted.

By unanimous consent, leave of absence was granted to Mr. DEUSTER, for one week from to-day, in consequence of the death of a friend.

The SPEAKER. The Chair has been requested to ask leave of absence from the House on behalf of the gentleman from Louisiana, Mr. BLANCHARD.

Mr. MILLER. I object, unless he sets forth a good reason.

Mr. ROBINSON, of Massachusetts. Mr. Speaker, I think we all want to do just what is right in such cases; I certainly do. I voted in favor of granting leave of absence on the statement of the gentleman from West Virginia, a few moments since. I think the gentleman from Louisiana himself, or some one for him, should state the circumstances which require his absence from the House.

The SPEAKER. The request was made in his behalf by his colleague, [Mr. ELLIS.]

Mr. ELLIS. I will state that I received a note from Mr. BLANCHARD this morning, in which he informed me that he was detained from the House unavoidably by some important business. The note also stated that he was paired with Mr. LEWIS, and requested me to ask the House to grant him leave of absence for this one day only. My colleague has not been absent a day since he was a member of the House, or since the House was in session; and I make the request in his behalf that he be excused for this day.

The SPEAKER. The question is on the motion of the gentleman from Louisiana, that leave of absence be granted his colleague for this day.

The motion was agreed to.

By unanimous consent, leave of absence was granted to Mr. VAL-ENTINE indefinitely, on account of sickness in his family.

## ORDER OF BUSINESS.

Mr. CALKINS. I move that there be a call of the House.

A call of the House was ordered.

The Clerk proceeded to call the roll, when the following-named members failed to answer:

Armfield,	Hardenbergh,	Martin,	Smith, J. Hyatt
Barbour,	Hardy,	Mason,	Stephens,
Belford,	Harmer,	McCoid,	Thomas
Belmont,	Hawk,	McCook,	Townshend,
Beltzhoover,	Herndon,	McLane,	Valentine,
Bingham,	Hewitt, Abram S.	Morse,	Van Aernam,
Black,	Hiscock,	Moulton,	Van Voorhis,
Blanchard,	Horr,	Murch,	Wadsworth,
Bowman,	Hubbell,	Nolan,	Walker,
Bragg,	Hutchins,	Richardson, D. P.	Washburn,
Camp,	Joyce,	Ross,	Watson,
Cornell,	Knott,	Scales,	Wise, George D.
Dibrell,	Latham,	Scoville,	Wise, Morgan R.
Dowd,	Leedom,	Scranton,	Wood, B.
Errett,	Le Fevre,	Shallenberger,	Wood, Walter A.
Farwell, Charles B.	Lewis,	Sherwin,	Young.
Frost,	Lindsey,	Singleton, Jas. W.	

The SPEAKER. The doors will now be closed and the names of absentees will be called so that excuses may be offered.

The Clerk proceeded to call the names of members who did not answer, as follows:

Mr. ARMFIELD. No excuse offered.  
 Mr. BARBOUR. No excuse offered.  
 Mr. BELFORD. No excuse offered.  
 Mr. BELMONT. No excuse offered.  
 Mr. BELTZHOOVER. No excuse offered.  
 Mr. BINGHAM. No excuse offered.  
 Mr. BLACK.

Mr. HAMMOND, of Georgia. My colleague, Mr. BLACK, is confined to his room by illness. I move that he be excused.

The motion was agreed to.

Mr. BLANCHARD. Absent on leave.  
 Mr. BOWMAN. No excuse offered.  
 Mr. BRAGG. Absent on leave.  
 Mr. CAMP. Absent on leave.  
 Mr. CORNELL. Absent on leave.  
 Mr. DEUSTER. Absent on leave.  
 Mr. DIBRELL.

Mr. McMILLIN. I understand that my colleague, Mr. DIBRELL, is still too sick to leave home and come to Washington. I move that he be excused.

The motion was agreed to.

Mr. DOWD. Absent on leave.  
 Mr. FARWELL, of Illinois. No excuse offered.  
 Mr. FROST. No excuse offered.  
 Mr. HARDENBERGH. Absent on leave.  
 Mr. HARDY. No excuse offered.  
 Mr. HARMER. No excuse offered.  
 Mr. HAWK. No excuse offered.  
 Mr. HERNDON. No excuse offered.  
 Mr. HEWITT, of New York. Absent on leave.  
 Mr. HISCOCK.

Mr. McCOOK. My colleague, Mr. HISCOCK, was called home on Saturday on important and imperative business. He will be here to-night or to-morrow morning. I move that he be excused.

The motion was agreed to.

Mr. HERR.

Mr. RICH. My colleague, Mr. HERR, went home a week ago on account of important business; also on account of sickness in his family. He was expected to return last evening, and may be here at any moment. I move that he be excused for to-day.

The motion was agreed to.

Mr. HUBBELL. No excuse offered.  
 Mr. HUTCHINS. No excuse offered.  
 Mr. JOYCE. Absent on leave.  
 Mr. KNOTT. No excuse offered.  
 Mr. LATHAM. No excuse offered.  
 Mr. LEEDOM.

Mr. FINLEY. Mr. LEEDOM is paired with Mr. YOUNG, of Ohio, and to my personal knowledge is too sick to be here. I move that he be excused.

Mr. ATHERTON. I saw Mr. LEEDOM last night. He is laboring under indisposition. He said if he should not be here this morning it would be because he was too sick to come.

The motion to excuse Mr. LEEDOM was agreed to.

Mr. LE FEVRE. No excuse offered.  
 Mr. LEWIS.

Mr. CULLEN. My colleague, Mr. LEWIS, is absent on account of ill health. He has been in very poor health for a long time. It is possible, however, he may be here to-day. I move that he be excused.

The motion was agreed to.

Mr. LINDSEY. Absent on leave.  
 Mr. MARTIN. No excuse offered.

Mr. MASON.

Mr. ROBINSON, of Massachusetts. I know that Mr. MASON has been quite ill for a long time; and I know he will be here as soon as he is able to come. I move that he be excused.

The motion was agreed to.

Mr. McCOID. I am present.

Mr. McCOOK. I am present.

Mr. McLANE. Absent on leave.

Mr. HOBLITZELL. I may state that my colleague, Mr. McLANE, has been sick for more than a week. He is absent on indefinite leave.

Mr. MORSE. Absent on leave.

Mr. MOULTON. Absent on leave.

Mr. MURCH. Absent on leave.

Mr. NOLAN. No excuse offered.

Mr. RICHARDSON, of New York. No excuse offered.

Mr. ROSS. No excuse offered.

Mr. SCALES. Absent on leave.

Mr. SCOVILLE. Absent on leave.

Mr. SCRANTON.

Mr. FLOWER. Mr. SCRANTON is absent on account of illness. I move that he be excused.

The motion was agreed to.

Mr. SHALLENBERGER. Absent on leave.

Mr. SHERWIN. No excuse offered.

Mr. SINGLETON, of Illinois.

Mr. SINGLETON, of Illinois. I am present.

Mr. SMITH, of New York. No excuse offered.

Mr. STEPHENS.

Mr. HAMMOND, of Georgia. My colleague, Mr. STEPHENS, is confined to his room by illness. I move that he be excused.

The motion was agreed to.

Mr. THOMAS.

Mr. THOMAS. I am present.

Mr. TOWNSHEND, of Illinois. Absent on leave.

Mr. VALENTINE. Absent on leave.

Mr. VAN AERNAM. Absent on leave.

Mr. VAN VOORHIS. No excuse offered.

Mr. WADSWORTH. No excuse offered.

Mr. WALKER. No excuse offered.

Mr. WASHBURN. Absent on leave.

Mr. WATSON. Absent on leave.

Mr. WISE, of Virginia. Absent on leave.

Mr. WISE, of Pennsylvania. No excuse offered.

Mr. BENJAMIN WOOD. Absent on leave.

Mr. WALTER A. WOOD. No excuse offered.

Mr. YOUNG. No excuse offered.

Mr. CALKINS, (at 12.35 p. m.) I submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

*Resolved*, That the Sergeant-at-Arms take into custody and bring to the bar of this House such of its members as are absent without leave.

The resolution was adopted.

Mr. CALKINS 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.

The SPEAKER. The Chair will state that the gentleman from Georgia, Mr. SPEER, informed the Chair before leaving the Hall to-day that he was quite ill and unable to remain.

Mr. HAMMOND, of Georgia. I move that my colleague be excused from attendance for to-day.

There was no objection, and Mr. SPEER was excused accordingly.

Mr. WEBBER. I ask that my colleague, Mr. HUBBELL, be excused for to-day. He was not well on Saturday, and I think is not able to be here to-day.

Mr. CALKINS. I think that Mr. HUBBELL will be here pretty soon, and that it will not be necessary to excuse him.

Mr. WEBBER. Then I withdraw the request.

Mr. BAYNE. During the lull in the proceedings of the House, in order that the House may be entertained in some way, I will ask that a very brief editorial from the Philadelphia Times be read by the Clerk.

Mr. VAN VOORHIS. I second the motion.

Mr. SPRINGER. What is it about?

The SPEAKER. Does the gentleman rise for a question of privilege?

Mr. BAYNE. Well, yes, I do; and I ask that this editorial be read as the foundation of my question of privilege.

The SPEAKER. The Chair thinks that until the proceedings under the call are dispensed with, that would not be in order, unless it is a question relating to the call of the House.

Mr. SPRINGER, (at 1.30 p. m.) In order to accommodate the gentleman from Pennsylvania, [Mr. BAYNE,] I move that all further proceedings under the call be dispensed with.

Mr. CALKINS. I hope that motion will be promptly voted down.

The motion of Mr. SPRINGER was not agreed to; upon a division—ayes 8, noes 42.

Mr. VAN VOORHIS. I ask unanimous consent to introduce a pension bill.

The SPEAKER *pro tempore*, (Mr. POUND.) The Chair must decline to entertain that proposition.

Mr. VAN VOORHIS. Not by unanimous consent?

The SPEAKER *pro tempore*. Not even by unanimous consent pending proceedings under a call of the House.

The Sergeant-at-Arms (at 1.45 p. m.) appeared at the bar of the House, having in custody Mr. VAN VOORHIS.

The SPEAKER *pro tempore*. Mr. VAN VOORHIS, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. VAN VOORHIS. That is a great deal of a mistake. And if anybody supposes that I have any objection to filibustering they make a great mistake.

Mr. COX, of New York. We cannot hear the prisoner.

The SPEAKER *pro tempore*. The House will be in order.

Mr. VAN VOORHIS. I do not know that any harm ever came out of filibustering; and I think a great deal of good comes out of it sometimes. During the last Congress I joined a number of times in filibustering against some of the most damnable schemes of the Democratic party. I only regret now that our Democratic friends should be filibustering in the interest of frauds in election and tissue-paper ballots.

Mr. ATHERTON. I rise to a point of order and insist that the gentleman must confine himself to making his excuses for being absent.

Mr. VAN VOORHIS. There are a great many important bills which ought to be passed. There is a bill introduced by myself to give to every living soldier who suffered in rebel prisons a dollar a day for each day of his imprisonment.

Mr. ATKINS. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ATKINS. If the gentleman has any excuse to offer I am willing to hear it; but I am opposed to his making a political speech.

The SPEAKER *pro tempore*. The gentleman must confine himself to rendering an excuse.

Mr. VAN VOORHIS. I will get to it just as fast as I can, if gentlemen will only let me alone. That bill which I just alluded to—

Mr. ATKINS. I insist that the gentleman is not in order.

The SPEAKER *pro tempore*. The Chair is of opinion that the gentleman is hardly confining himself to his excuse.

Mr. VAN VOORHIS. I do not care whether I am in order or not. I am not here of my own motion, but I have been arrested and brought here. I would ask the House if they are going to have a man arrested and brought to the bar of the House and then gag him?

Now I want to say to the House that we have just had our attention called to a specimen of the arbitrary power of the Democratic party when in power in this House in the \$100,000 verdict rendered in favor of Hallet Kilbourn for a single act committed under the orders of a Democratic House—the largest verdict ever recovered in any court for malicious prosecution or false imprisonment.

Mr. ATHERTON. I call the gentleman to order.

The SPEAKER *pro tempore*. The Chair must insist that the gentleman from New York confine himself to presenting a legitimate excuse for his absence.

Mr. HASELTINE. I move that the gentleman be allowed to print.

Mr. KLOTZ. I wish to know whether when a gentleman is brought to the bar of the House to give an excuse for not attending to his duty, this House is to stand by and hear itself arraigned in this way. I wish to know whether it is not a disgrace that members must sit here and listen to this kind of talk. I move that the gentleman be fined \$20. [Laughter and applause.] I insist on my motion.

Mr. VAN VOORHIS. I have the floor.

The SPEAKER *pro tempore*. The Chair is of opinion that the gentleman from New York is not confining himself to a legitimate excuse for his absence.

Mr. VAN VOORHIS. I am coming to that, Mr. Speaker.

The SPEAKER *pro tempore*. Unless the gentleman has some legitimate excuse to offer the Chair must entertain at once the motion of the gentleman from Pennsylvania, [Mr. KLOTZ.]

Mr. VAN VOORHIS. I deny that I was absent. I was here this morning when the House met. [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The gentleman from New York is now proceeding in order.

Mr. ATKINS. I call for the regular order, which is the motion of the gentleman from Pennsylvania.

The SPEAKER *pro tempore*. The Chair is of opinion that if the gentleman from New York [Mr. VAN VOORHIS] has any proper excuse to offer—

Mr. VAN VOORHIS. I am stating it.

The SPEAKER *pro tempore*. So long as he confines himself to the presentation of that excuse he is in order.

Mr. COX, of New York. I rise to a point of order. The gentleman from New York claimed the floor as a member. He is not in that relation now, and not entitled to make speeches.

Mr. VAN VOORHIS. I am not related to you.

Mr. COX, of New York. We have the right to protect ourselves from this sort of insult. Twice the gentleman has been in contempt of the House by not being here in his place; and now he undertakes to make political speeches when he is arrested and brought to the bar. I hope the Chair will enforce the rules.

The SPEAKER *pro tempore*. The point of order would have been well taken if made at the time the gentleman submitted his remarks.

Mr. COX, of New York. The gentleman from New York claimed the floor as a member; but all he had the right to do was to give his excuse.

The SPEAKER *pro tempore*. The point of order comes too late.

Mr. VAN VOORHIS. I was proceeding to say—

Mr. COX, of New York. I make the point of order that nothing else is in order except the motion of the gentleman from Pennsylvania. We may as well conduct this thing in order. The call of the House has been made by the other side; let them enforce the call. We did not order this call of the House; the Republicans did it.

Mr. VAN VOORHIS. I call my colleague to order. His tongue is hung on a swivel and runs at both ends.

The SPEAKER *pro tempore*. The Chair is of opinion that the point of order of the gentleman from New York [Mr. COX] is not well taken. The gentleman from New York [Mr. VAN VOORHIS] will proceed.

Mr. VAN VOORHIS. Now, Mr. Speaker, I must not be hurried in this matter, because time is not very important to-day. I was here this morning and answered to my name. I had occasion to leave the Hall for a few minutes; and I left word with one of the officers if there should be a call to send for me at a room down stairs in this building. For some reason, he omitted to do so. I arrived here just after my name had been called and too late to answer. I have not really been away from the House a moment, although I stepped out into the corridor and into the hall below for a few minutes. During that time my name happened to be called. Now, if my friend thinks this is out of order, let him raise the point of order.

Mr. COX, of New York. The gentleman did not give any such excuse as that. He was making political remarks. He had no right to make the speech he was making.

Mr. VAN VOORHIS. All I said before was simply prefatory to my excuse.

Mr. COX, of New York. I claim the floor in reply to the gentleman.

Mr. BLOUNT. I move that the gentleman from New York be excused.

A MEMBER. Which gentleman from New York! [Laughter.]

Mr. COX, of New York. I can take care of myself. I claim the right to debate this motion.

The SPEAKER *pro tempore*. The gentleman is not in order. He has not been recognized for that purpose.

Mr. COX, of New York. Who has the floor; the prisoner?

The SPEAKER *pro tempore*. The gentleman from Georgia [Mr. BLOUNT] has submitted a motion, which the Chair will entertain.

Mr. COX, of New York. I was on the floor before the gentleman from Georgia.

The SPEAKER *pro tempore*. The gentleman was not recognized and is not in order.

Mr. ATHERTON. I rise to a parliamentary inquiry. I ask whether the motion of the gentleman from Georgia takes precedence of the motion of the gentleman from Pennsylvania, [Mr. KLOTZ.]

The SPEAKER *pro tempore*. The Chair is of opinion that the gentleman from Pennsylvania submitted his motion before the gentleman from New York had concluded his excuse, and therefore the Chair has recognized the gentleman from Georgia. [Cries of "Question!" "Question!"]

Mr. COX, of New York. I claim that in allowing me to speak the Chair did recognize me to reply to the remarks of the gentleman from New York. Now I claim the right to speak on the motion of the gentleman from Georgia.

The SPEAKER *pro tempore*. The gentleman from New York is not in order.

Mr. COX, of New York. Can I not speak to the motion of the gentleman from Georgia?

The SPEAKER *pro tempore*. If the gentleman rises for that purpose he will be recognized.

Mr. COX, of New York. I rise for that purpose.

The SPEAKER *pro tempore*. The gentleman from New York will proceed.

Mr. COX, of New York. I beg leave to say to gentlemen that I have not been engaged myself in this filibustering. I was absent on Saturday in my committee-room on appropriations.

Mr. BROWNE. I ask whether the gentleman is addressing himself to the question before the House?

Mr. COX, of New York. I will address myself to the question of excusing this member from New York, and as a motive for speaking fairly and impartially I state that I have not been prominent in this matter of filibustering, but was ready, in case it was necessary, to have one vote as I had promised my colleague [Mr. HISCOCK] to make a quorum so we might go on with the public business.

Mr. VAN VOORHIS. We did not know that before.

Mr. COX, of New York. It does not make any difference whether you know it or not. We do want to know whether this gentleman from New York, twice contumaciously neglecting his duty and his constituents, shall make a political speech to which we could not reply. Although made jocularly against members of the Democratic side of the House, it was entirely out of order. That it may not go to the country to reproach this side of the House—

Mr. ROBESON. I rise to a point of order.

Mr. COX, of New York. Instead of to their reproach it is in favor of this side of the House, and the gentleman deserves double penalty for insulting this side of the House.

Mr. ROBESON. I call the gentleman to order.

The SPEAKER *pro tempore*. The gentleman will suspend until the point of order has been stated.

Mr. ROBESON. The gentleman from New York is on the floor properly; I admit that; but he should, if he will permit me, address his remarks to the subject-matter, and not to censuring the gentleman for having made his speech. The only question now before the House is, whether the gentleman from New York has given a sufficient excuse for his absence. The House will settle that question first. Then, if he has behaved improperly, the gentlemen on the other side can arraign him and have that subject decided. The subject-matter directly before the House, the gentleman from New York [Mr. VAN VOORHIS] having been called before the House to give an excuse, and having given it, is whether that is a good excuse or not; and that is the question we are called upon to settle, and not whether he has behaved badly or not.

Mr. COX, of New York. I resume the floor, Mr. Speaker.

Mr. ROBESON. My friend will observe that I am appealing only to parliamentary rules, and not to any political point.

Mr. COX, of New York. I see your point, but let me ask why did not the gentleman from New Jersey make that point upon the gentleman from New York, the prisoner at the bar. [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The gentleman from New York will suspend a moment. The gentleman from New Jersey has submitted a point of order to the Chair, and the gentleman from New York will wait until that has been decided.

Mr. MILLS. Why cannot the gentleman from New York discuss that point of order precisely as the Chair has allowed the gentleman from New Jersey to discuss it?

Mr. COX, of New York. I always have pleasure when I see a gentleman in the chair, as I see one now. I will say now when the gentleman from New Jersey calls me to account, his point of order would have amounted to something if he had made it against the political speech of my colleague, who is at the bar of the House to answer for his absence without leave. The gentleman from New Jersey says he is not making any political point, but merely appealing to parliamentary rules. Now, if he had been anxious about parliamentary rules he would have called my colleague to order when he made this political speech, which was not an excuse for his absence from the sittings of the House without leave.

Mr. ROBESON. When this question now before the House is finished, the gentleman may arraign me for that.

Mr. COX, of New York. Allow me to say that I would not add one feather's weight to the troubles of the gentleman from New Jersey, and never will. [Laughter.]

Mr. ROBESON. And I want the gentleman from New York to understand that I do not object to feather-weights. [Laughter and applause on the Republican side.]

Mr. COX, of New York. I never took my friend from New Jersey to be a light-weight in any regard. He always carried a heavy keel and a full cargo, regardless of all expense. [Laughter and applause on the Democratic side.] I want the gentleman to be assured of the fact that I would not give him an atom of trouble in addition, not the slightest microscopic weight of trouble to add to the great anxiety which he labors under as the leader of this House on that side. But I think that my friend from New Jersey, in all fairness, if he had been desirous of bringing the House to order and maintaining decorum, should have called my colleague to order.

Mr. ROBESON. I will reply to the gentleman, and say that if I have been wrong in any way with respect to what he now complains of, I ask pardon of the House. I hope that will be satisfactory to him.

Mr. COX, of New York. We grant it.

Mr. ROBESON. That settles the question of the gentleman from New York.

The SPEAKER *pro tempore*. The question is—

Mr. COX, of New York. I am not quite through with my remarks. I think, in order if possible to add to the fine in this case, that it is a duty which the House owes to itself to double the penalty which should be visited upon my colleague. We have listened to his excuse, which was made in a contumacious manner, and for that reason (because of the time, manner, and style in which he submitted his excuse) I claim that a heavier penalty should be visited upon him. Had he come up here kindly, gently, and properly, showing that respect for this House which is due to it, and made his excuse—a proper excuse—I should certainly have been willing to vote to excuse him simply on payment of a fine of \$10. But now that he comes here adding insult to injury, I think the proposition of my friend from Pennsylvania that he be fined \$20 is entirely too reasonable, and that it should be \$50. I move to make it \$50.

The SPEAKER *pro tempore*. The Chair did not understand that the gentleman from Pennsylvania had the floor to make his motion in the first instance. The gentleman from New York had not then completed his excuse.

Mr. VAN VOORHIS. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman could not be recognized for that purpose. He has made his excuse, and the only question now before the House is on what condition he shall be excused.

Mr. VAN VOORHIS. But I wish to ask a question—

The SPEAKER *pro tempore*. The Chair cannot recognize the gen-

tleman until the House decides the question as to whether or not he shall be excused, and on what conditions.

The gentleman from Georgia [Mr. BLOUNT] moves that the gentleman from New York be excused. The gentleman from New York [Mr. COX] moves as an amendment that he be fined \$50. That amendment, being in order, will be entertained.

Mr. COX, of New York. That is a good amendment.

The SPEAKER *pro tempore*. The question is on the amendment.

Mr. VAN VOORHIS. I wish to make a parliamentary inquiry.

Mr. COX, of New York. I make the point of order that the gentleman is contumacious now in attempting to ask a parliamentary question before he is excused.

Mr. VAN VOORHIS. I only desire to ask—

Mr. ROBESON. I must perform my duty. I rise to a question of order. I do not think that there is anything in order for the gentleman from New York, except his excuse.

Mr. COX, of New York. That is all.

Mr. VAN VOORHIS. But, Mr. Speaker—

The SPEAKER *pro tempore*. The gentleman cannot be recognized at this time.

Mr. COX, of New York. My colleague can only speak by the consent of the House.

Mr. VAN VOORHIS. My only desire is to ask the effect of the motion—

The SPEAKER *pro tempore*. The Chair declines to recognize the question of the gentleman.

Mr. VAN VOORHIS. And I want to know whether this motion, Mr. Speaker—

Mr. COX, of New York. I insist upon the enforcement of the rule. Mr. VAN VOORHIS. Whether you want to get up another Hal-

let Kilbourn case—

The SPEAKER *pro tempore*. The gentleman must be in order.

Mr. SPRINGER. The gentleman from New York understands the rule very well, and knows that he is out of order.

Mr. KLOTZ. What has become of the motion I made?

The SPEAKER *pro tempore*. No motion will be entertained until the House is in order.

Mr. ROBESON. I rise to a point of order.

The SPEAKER *pro tempore*. The Chair will first state the question.

Mr. ROBESON. Pending that I rise to a question of order.

The SPEAKER *pro tempore*. The Chair will recognize the gentleman for that purpose after the question has been stated to the House.

The Chair understands the gentleman from New York [Mr. COX] makes a motion as an amendment to that submitted by the gentleman from Georgia, [Mr. BLOUNT,] who moved that the gentleman from New York be excused.

Mr. VAN VOORHIS. I did not get quite through with stating my excuse.

Mr. COX, of New York. My colleague has no right to address the House. I object.

The SPEAKER *pro tempore*. Does the Chair understand the gentleman from New York as insisting upon his amendment.

Mr. COX, of New York. I do insist upon it.

The SPEAKER *pro tempore*. The Chair entertains that motion.

Mr. ROBESON. Pending that I desire to make a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ROBESON. And that is that the motion to excuse takes precedence of the motion to fine.

The SPEAKER *pro tempore*. The chair overrules the point of order.

Mr. KLOTZ. Mr. Speaker, what becomes of my motion?

The SPEAKER *pro tempore*. The gentleman from Pennsylvania rose while the gentleman from New York [Mr. VAN VOORHIS] was speaking, and of course could not then be recognized. Before the gentleman from New York [Mr. COX] took his seat he submitted an amendment to fine the gentleman from New York [Mr. VAN VOORHIS] \$50. The question is upon the amendment submitted by the gentleman from New York.

Mr. KLOTZ. I want to explain. I made a motion that the gentleman from New York should be fined \$20 for using the language he did while under arrest. That was certainly three or four minutes before the gentleman from New York [Mr. COX] took the floor. I have never sat down since. [Laughter.]

The SPEAKER *pro tempore*. The motion of the gentleman from Pennsylvania, as he now explains it, would not be in order at any time.

Mr. COX, of New York. To gratify my friend from Pennsylvania [Mr. KLOTZ] I withdraw my amendment, so that the vote may be taken on his.

The SPEAKER *pro tempore*. The gentleman from New York withdraws his amendment. Does the gentleman from Pennsylvania [Mr. KLOTZ] desire to submit an amendment?

Mr. KLOTZ. I desire to move as an amendment that the gentleman from New York be fined \$20 for having used language unbecoming a Congressman.

The SPEAKER *pro tempore*. The gentleman's amendment is not in order.

Mr. KLOTZ. Then I move that the gentleman from New York be fined \$20 for being absent from the sittings of the House a second time within a week without leave.

Mr. BAYNE. As I understand, the gentleman from New York [Mr. VAN VOORHIS] was brought to the bar of the House and commenced

to state his excuse. But I understand he has not fully stated his excuse. And I submit he should have, under the rule and in accordance with the courtesy usually shown to members brought here under such circumstances, full opportunity to state his excuse.

Mr. COX, of New York. The gentleman has had his day in court already.

The SPEAKER *pro tempore*. The Chair was of opinion the gentleman from New York had concluded his excuse.

Mr. VAN VOORHIS. I was interrupted by my colleague. I desire to state I came to the door of the House, found it open, went to my seat, and while there was arrested.

The SPEAKER *pro tempore*. The question is on the amendment of the gentleman from Pennsylvania [Mr. KLOTZ] that the gentleman from New York [Mr. VAN VOORHIS] be fined \$20.

The question being taken; there were—ayes 11, noes 50.

Mr. COX, of New York. I rise to a point of order. Is a quorum required on this vote?

The SPEAKER *pro tempore*. A quorum is not required on this vote. The amendment is not agreed to. The question recurs on the motion of the gentleman from Georgia, [Mr. BLOUNT,] that the gentleman from New York [Mr. VAN VOORHIS] be excused.

The question being taken, there were—ayes 75, noes 11.

So the motion was agreed to.

The Sergeant-at-Arms appeared at the bar having in his custody Mr. LE FEVRE.

The SPEAKER *pro tempore*, (Mr. DWIGHT.) Mr. LE FEVRE, you have been absent from the sittings of the House without its leave. What excuse have you to offer?

Mr. LE FEVRE. After the first roll-call this morning, at which I was present, I was informed by the gentleman from Pennsylvania [Mr. RANDALL] that I could safely leave for an hour. I went to the Post-Office Department with a constituent on a matter of important business and was detained longer than I had expected. As soon as I got through I returned without being arrested until I reached the door of the House.

Mr. TOWNSEND, of Ohio. I move that Mr. LE FEVRE be excused. The motion was agreed to.

Mr. SINGLETON, of Illinois. I ask unanimous consent that indefinite leave of absence be granted to the gentleman from Mississippi [Mr. SINGLETON] on account of the very low and serious condition of his wife, whom he is now compelled to take to their home.

The SPEAKER *pro tempore*. The gentleman from Illinois asks that leave of absence be granted indefinitely to Mr. SINGLETON, of Mississippi, on account of the severe illness of his wife.

There was no objection; and the leave was granted.

#### MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President of the United States were communicated to the House, by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved and signed bills and joint resolutions of the following titles: An act (H. R. No. 5575) providing a public building at Jackson, Tennessee;

An act (H. R. No. 3208) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes;

An act (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes;

An act (H. R. No. 3542) for the relief of Charles F. Benjamin and Henry H. Smith;

An act (H. R. No. 6179) directing the Secretary of State to take the necessary steps for the removal of the remains of the late General Kilpatrick, minister to Chili, from Chili to the State of New Jersey for interment;

Joint resolution (H. R. No. 111) authorizing the withdrawal from the Department of State of a certificate of indebtedness in favor of Mifflin Kennedy and Richard King against the Republic of Mexico; and

Joint resolution (H. R. No. 211) to authorize the Librarian of Congress to accept the library offered to be donated to the United States by Dr. Joseph Meredith Toner, of Washington, District of Columbia.

#### ORDER OF BUSINESS.

Mr. SPRINGER. I desire to ask the Speaker how the message which has just been announced got in here, the doors being closed?

The SPEAKER. The doors are closed to prevent members going out, except on parole; not to prevent persons coming in who are entitled to enter.

Mr. SPRINGER. I do not understand that we could receive a message from the President when the doors are closed. If the message is properly here it ought to be read.

The SPEAKER. The gentleman from Illinois is not entitled to call for the reading of the message at this time.

Mr. SPRINGER. It seems to me if it be in order to receive the message it would be in order to have it read. We do not know what the President may wish to communicate to us; he may be sending us an advice to go on with the public business.

Mr. HASKELL. Hire a hall. [Laughter.]

Mr. SPRINGER. Not for you.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendment a bill of the House of the following title:

A bill (H. R. No. 2851) for the relief of Moses R. Russell.

The message further announced that the Senate had passed, and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 74) to provide for the payment of the claim of Joseph R. Shannon, of Louisiana;

A bill (S. No. 1435) for the relief of Albert Elsberg, administrator of Gustave Elsberg, deceased; and

A bill (S. No. 1456) to secure the safe-keeping of money paid into court.

#### ORDER OF BUSINESS.

The House resumed proceedings under the call of the House.

Mr. BAYNE. I desire to submit a matter which bears directly and ought to bear influentially upon the proceedings in which the House is now engaged. I read from the Philadelphia Times of to-day—

Mr. SPRINGER. Hold on; let the Clerk read it.

Mr. BAYNE. I will let the Clerk read it.

Mr. ATHERTON. I object.

The SPEAKER *pro tempore*, (Mr. ROBINSON, of Ohio.) The gentleman from Pennsylvania [Mr. BAYNE] is out of order.

Mr. BAYNE. The proposition which I submit bears directly and ought to bear influentially upon the present proceedings of the House. I ask that the Clerk read it.

Mr. ATHERTON. I object to the reading and call for the regular order.

Mr. BAYNE. This is regularly in order.

The SPEAKER *pro tempore*. The Clerk can read it, after which the Chair will rule upon it.

The Clerk began the reading of the article, but was not heard distinctly on account of the cries of "regular order," and "object," from the Democratic side of the House.

Mr. McMILLIN. I rise to a point of order.

Mr. COX, of New York. I rose to a point of order before the reading began.

Mr. SINGLETON, of Illinois. The Clerk has no right to read anything against the protest of the members of the House.

Mr. COX, of New York. I have been here ten times as long as the present occupant of the chair, and I know when my rights come in; and in this case they come in in advance of the reading. While in this chaotic condition we have a right to but two things, either a call of the House or an adjournment. All other matters are out of order, and it has always been so ruled from the beginning.

The SPEAKER *pro tempore*. The Chair will rule that the proposition of the gentleman from Pennsylvania [Mr. BAYNE] is out of order.

Mr. McMILLIN. I rise to a point of parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. McMILLIN. By what authority, then, was the paper read from the Clerk's desk?

Mr. SINGLETON, of Illinois. And in violation of the rules and order of the House.

The SPEAKER *pro tempore*. The Chair directed it to be read. It was impossible for the Chair to understand what it was until it was read.

Mr. McMILLIN. Do I understand from the Chair that nothing was read from the desk?

Mr. HUMPHREY. Nobody heard it; you made so much noise.

Mr. ATHERTON. I want to inquire of the Chair whether it is expected that so much of that article as was read against the rules and privileges of the House will appear in the RECORD?

The SPEAKER *pro tempore*. The Chair decides that it shall not go into the RECORD, and rules it out of order.

Mr. BAYNE. It has been read and it goes into the RECORD.

The SPEAKER *pro tempore*. The Chair rules it out of order, and therefore it will not go into the RECORD.

Mr. BAYNE. The Chair could not rule it out of order until it had been read. It was read, and after the Chair heard it read the Chair then, upon a point of order raised, ruled it out of order. But that will not preclude it from going into the RECORD; it is a part of the proceedings of to-day and must go into the RECORD.

Mr. COX, of New York. I rise to a point of order.

The SPEAKER *pro tempore*. All this discussion is out of order. The Chair has ruled that the article sent up by the gentleman from Pennsylvania was out of order.

Mr. HASKELL. I suggest that the point which is desired to be accomplished by the other side can be fully consummated if they will send a committee up to the correspondent's gallery and make sure that this article is not published in the daily press.

Mr. COX, of New York. What if it is published in the press? That is where it comes from.

Mr. ROBINSON, of New York, (at two o'clock and forty minutes p. m.) In order to save the credit of the nation, I move that the House do now adjourn.

Mr. SPRINGER. That is a very proper motion.

Mr. HAMMOND, of Georgia. We have not put in a full day's work yet. [Laughter.]

Mr. HUMPHREY. The nation is all right; it is the House that is in fault.

Mr. VAN VOORHIS. I hope the gentleman will include Ireland also.

The motion to adjourn was not agreed to; upon a division—ayes 25, noes 81.

Mr. MOORE. I would like, if in order, to offer a very brief resolution for the consideration of the House.

Mr. ATHERTON. I object to that now in time.

The SPEAKER *pro tempore*. Objection is made, and the resolution is not in order.

Mr. BAYNE. Let us hear it read. It may be a motion to suspend further proceedings under the call.

Mr. ATHERTON. Then the gentleman can state it as a question of privilege.

Mr. BLAND. Is it in favor of Cameron or of the other side?

The SPEAKER *pro tempore*. This discussion is out of order.

Mr. MOORE. The resolution is entirely non-partisan; and if I can get unanimous consent to offer it—

Mr. ATHERTON. You cannot do it.

Mr. HASKELL. I submit the following resolution—

Mr. ATHERTON. I object.

The SPEAKER *pro tempore*. Objection is made.

Mr. HASKELL. Cannot the resolution be read? [Cries of "No!" "No!"]

Mr. MOORE. It will not hurt anybody.

Mr. HASKELL. I would rather like to have it read for information.

The SPEAKER *pro tempore*. The resolution will be read. The Clerk read as follows:

*Resolved*, That further proceedings under the call be dispensed with.

[Laughter.]

Mr. HASKELL. I withdraw the resolution.

Mr. ATHERTON. Is the resolution before the House? Does the Chair propose to recognize it or not?

The SPEAKER *pro tempore*. The gentleman from Kansas has withdrawn the resolution.

Mr. MOORE. That was not my resolution. The Clerk made a mistake.

Mr. CALKINS, (at four o'clock p. m.) I now move to dispense with all further proceedings under the call.

The motion was agreed to.

Mr. CALKINS. I now call up the contested-election case of Mackey vs. Dibble.

The SPEAKER *pro tempore*. The question recurs on the question of consideration raised by the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. CALKINS. On that we may as well have the yeas and nays.

The SPEAKER *pro tempore*. The yeas and nays have already been ordered.

The question was taken; and there were—yeas 117, nay 1, not voting 173; as follows:

YEAS—117.

- |                    |                    |                    |                    |
|--------------------|--------------------|--------------------|--------------------|
| Aldrich,           | Farwell, Sewell S. | McClure,           | Ryan,              |
| Anderson,          | Fisher,            | McCord,            | Scranton,          |
| Bayne,             | Ford,              | McCook,            | Shultz,            |
| Brewer,            | George,            | McKinley,          | Skinner,           |
| Briggs,            | Godshalk,          | Miles,             | Smith, A. Herr     |
| Browne,            | Gront,             | Miller,            | Smith, Dietrich C. |
| Brunn,             | Guenther,          | Moore,             | Spaulding,         |
| Buck,              | Hall,              | Morey,             | Spooner,           |
| Burrows, Julius C. | Hammond, John      | Norcross,          | Steele,            |
| Burrows, Jos. H.   | Harris, Benj. W.   | O'Neill,           | Stone,             |
| Butterworth,       | Haseltine,         | Orth,              | Strait,            |
| Calkins,           | Haskell,           | Page,              | Taylor,            |
| Campbell,          | Heilman,           | Parker,            | Thomas,            |
| Candler,           | Henderson,         | Payson,            | Thompson, Wm. G.   |
| Cannon,            | Hepburn,           | Pelle,             | Townsend, Ainos    |
| Carpenter,         | Houk,              | Peirce,            | Tyler,             |
| Caswell,           | Hubbs,             | Pettibone,         | Updegraff, J. T.   |
| Chace,             | Humphrey,          | Pound,             | Updegraff, Thomas  |
| Crapo,             | Jacobs,            | Prescott,          | Urner,             |
| Crowley,           | Jadwin,            | Ranney,            | Van Horn,          |
| Cullen,            | Jones, George W.   | Ray,               | Van Voorhis,       |
| Cutts,             | Jones, Phineas     | Rice, John B.      | Wait,              |
| Darrall,           | Jorgensen,         | Rice, Theron M.    | Ward,              |
| Davis, George R.   | Kasson,            | Rice, William W.   | Webber,            |
| Dawes,             | Kelley,            | Rich,              | West,              |
| Deering,           | Lacey,             | Ritchie,           | White,             |
| De Motie,          | Ladd,              | Robeson,           | Willits.           |
| Dingley,           | Lord,              | Robinson, Geo. D.  |                    |
| Dunnell,           | Lynch,             | Robinson, James S. |                    |
| Dwight,            | Marsh,             | Russell,           |                    |

NAY—1.

Phelps.

NOT VOTING—173.

- |              |            |             |                   |
|--------------|------------|-------------|-------------------|
| Aiken,       | Bingham,   | Cabell,     | Converse,         |
| Armfield,    | Black,     | Caldwell,   | Cook,             |
| Atherton,    | Blackburn, | Camp,       | Cornell,          |
| Atkins,      | Blanchard, | Carlisle,   | Cox, Samuel S.    |
| Barbour,     | Bland,     | Cassidy,    | Cox, William R.   |
| Barr,        | Bliss,     | Chapman,    | Covington,        |
| Beach,       | Blount,    | Clardy,     | Cravens,          |
| Belford,     | Bowman,    | Clark, jr., | Culberson,        |
| Belmont,     | Bragg,     | Clements,   | Curtin,           |
| Beltzhoover, | Buchanan,  | Cobb,       | Davidson,         |
| Berry,       | Buckner,   | Colerick,   | Davis, Lowndes H. |

- |                   |                 |                     |                    |
|-------------------|-----------------|---------------------|--------------------|
| Denster,          | Hill,           | Mosgrove,           | Stephens,          |
| Dezendorf,        | Hiscock,        | Moulton,            | Stockslager,       |
| Dibble,           | Hoblitzell,     | Muldrow,            | Talbot,            |
| Dibrell,          | Hoge,           | Murch,              | Thompson, P. B.    |
| Dowd,             | Holman,         | Mutchler,           | Tillman,           |
| Dugro,            | Hooker,         | Neal,               | Townshend, R. W.   |
| Dunn,             | Horr,           | Nolan,              | Tucker,            |
| Ellis,            | Hose,           | Oates,              | Turner, Henry G.   |
| Ermentrout,       | Hubbell,        | Pacheco,            | Turner, Oscar      |
| Errett,           | Hutchins,       | Paul,               | Upson,             |
| Eyins,            | Jones, James K. | Phister,            | Valentine,         |
| Farwell, Chas. B. | Joyce,          | Randall,            | Vance,             |
| Finley,           | Kenna,          | Reagan,             | Van Aernam,        |
| Flower,           | Ketcham,        | Reed,               | Wadsworth,         |
| Forney,           | King,           | Richardson, D. P.   | Walker,            |
| Frost,            | Klotz,          | Richardson, Jno. S. | Warner,            |
| Fulkerson,        | Knott,          | Robertson,          | Washburn,          |
| Garrison,         | Latham,         | Robinson, Wm. E.    | Watson,            |
| Geddes,           | Leedom,         | Rosecrans,          | Wellborn,          |
| Gibson,           | Le Fevre,       | Ross,               | Wheeler,           |
| Gunter,           | Lewis,          | Scates,             | Whitthorne,        |
| Hammond, N. J.    | Lindsey,        | Seville,            | Williams, Chas. G. |
| Hardenbergh,      | Manning,        | Shackelford,        | Williams, Thomas   |
| Hardy,            | Martin,         | Shallenberger,      | Willis,            |
| Harmer,           | Mason,          | Shelley,            | Wilson,            |
| Harris, Henry S.  | Matson,         | Sherwin,            | Wise, George D.    |
| Hatch,            | McKenzie,       | Simonton,           | Wise, Morgan R.    |
| Hawk,             | McLane,         | Singleton, Jas. W.  | Wood, Benjamin     |
| Hazelton,         | McMillin,       | Singleton, Otho R.  | Wood, Walter A.    |
| Herbert,          | Mills,          | Smith, J. Hyatt     | Young,             |
| Herndon,          | Money,          | Sparks,             |                    |
| Hewitt, Abram S.  | Morrison,       | Speer,              |                    |
| Hewitt, G. W.     | Morse,          | Springer,           |                    |

The SPEAKER. On this question there are 117 in the affirmative and 1 in the negative.

Mr. RANDALL. No quorum.

Mr. CALKINS. Inasmuch as no quorum has voted, and evidently there is not a quorum in the House, I move a call of the House.

The motion was agreed to; there being—ayes 65, noes 24.

The Clerk proceeded to call the roll, when the following-named members failed to answer:

- |              |                   |                   |                    |
|--------------|-------------------|-------------------|--------------------|
| Armfield,    | Errett,           | Latham,           | Shallenberger,     |
| Barbour,     | Farwell, Chas. B. | Leedom,           | Sherwin,           |
| Barr,        | Flower,           | Lewis,            | Singleton, Otho R. |
| Belford,     | Frost,            | Lindsey,          | Smith, J. Hyatt    |
| Belmont,     | Hardenbergh,      | Martin,           | Speer,             |
| Beltzhoover, | Hardy,            | Mason,            | Stephens,          |
| Bingham,     | Harmer,           | McLane,           | Townshend, R. W.   |
| Black,       | Hawk,             | Morse,            | Valentine,         |
| Blanchard,   | Hazelton,         | Moulton,          | Van Aernam,        |
| Bowman,      | Herndon,          | Murch,            | Wadsworth,         |
| Bragg,       | Hewitt, Abram S.  | Neal,             | Walker,            |
| Camp,        | Hiscock,          | Nolan,            | Washburn,          |
| Carlisle,    | Horr,             | Paul,             | Watson,            |
| Cornell,     | Hubbell,          | Ray,              | Wise, George D.    |
| Deering,     | Hutchins,         | Richardson, D. P. | Wise, Morgan R.    |
| Deuster,     | Jones, Phineas    | Ross,             | Wood, Benj.        |
| Dibble,      | Joyce,            | Scates,           | Wood, Walter A.    |
| Dowd,        | Knott,            | Seville,          | Young,             |

Mr. CALKINS. I ask that the names of the absentees be noted.

The SPEAKER. They will be noted.

Mr. CALKINS. As it is impossible to get a majority of members present to-day who desire to go on with the public business, I will move the House do now adjourn, giving notice at the same time I will to-morrow call up the contested-election case of Mackay vs. Dibble.

Mr. BURROWS, of Michigan. Regular order.

The SPEAKER. The Chair suggests the gentleman from Indiana withdraw the motion to adjourn and move that further proceedings under the call be dispensed with, as it has several requests of members to lay before the House.

Mr. CALKINS. I withdraw the motion to adjourn and move to dispense with all further proceedings under the call.

The motion was agreed to.

Mr. CALKINS. Now I move that the House adjourn.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, by unanimous consent, 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 (H. R. No. 880) to provide for the erection of a public building in the city of Hannibal, in the State of Missouri;

A bill (H. R. No. 2851) for the relief of Moses R. Russell;

A bill (H. R. No. 3846) for the erection of a public building at Louisville, Kentucky;

A bill (H. R. No. 3847) for a public building at Rochester, New York;

A bill (H. R. No. 3858) to provide for the construction of a public building at Galveston, Texas;

A bill (H. R. No. 4701) to provide for the erection of a public building at Detroit, Michigan;

A bill (H. R. No. 4172) to provide for the erection of a public building in the city of Syracuse, New York;

A bill (H. R. No. 4177) for the erection of a public building at Council Bluffs, Iowa;

A bill (H. R. No. 5540) to authorize the receipt of United States gold coin in exchange for gold bars; and

A bill (H. R. No. 5546) for the erection of a public building at Greensborough, North Carolina.

## ORDER OF BUSINESS.

The SPEAKER. The Chair asks unanimous consent to submit requests of members for leave of absence.

Mr. CALKINS. I object to all leaves of absence.

Mr. REED. I ask unanimous consent to submit two reports.

Mr. THOMPSON, of Kentucky. I ask unanimous consent to introduce a bill for a man who has had both his arms shot off. There should be no objection.

Mr. ROBESON. I object to any unanimous consent that interferes with the progress of the public business and the right of a member to his seat.

The motion to adjourn was agreed to; and accordingly (at four o'clock and fifty minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BERRY: The resolutions adopted by the Sonoma County Vine-Culture Club, in opposition to taxation of carbonate wines—to the Committee on Ways and Means.

By Mr. CANNON: Papers relating to the claim of W. H. Drum—to the Committee on Military Affairs.

By Mr. DE MOTTE: The petition of J. H. Ford and others, citizens of Logansport, Indiana, asking that pensions be granted to soldiers who were confined in Confederate prisons—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. ERMENTROUT: The resolutions adopted by the Philadelphia Board of Trade, urging an adequate appropriation for the Hydrographic Office—to the Committee on Appropriations.

Also, the petition of the Philadelphia Board of Trade, for appropriations to American steamships for ocean mail service—to the Committee on Commerce.

By Mr. N. J. HAMMOND: The petition of C. H. Walker and others, citizens of Crawford County, Georgia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. JOHN HAMMOND: The petition of citizens of Clinton County, New York, for the enactment of a general law to regulate emigration—to the Committee on Commerce.

By Mr. LORD: The petition of Eunice Tripler, widow of the late Surgeon Charles S. Tripler, for relief—to the Committee on Military Affairs.

By Mr. LYNCH: The petition of citizens of Corinth, Mississippi, asking that the Federal court be located at that place instead of at Aberdeen—to the Committee on the Judiciary.

By Mr. MATSON: Papers relating to the pension claim of Theresa C. Watson—to the Committee on Pensions.

By Mr. MOORE: The petitions of Jennie S. Wheeler, of L. B. Burnwell, of Elizabeth Becton, and of M. A. Gober, administrators of the estate of Jos. T. Abernathy, deceased—severally to the Committee on War Claims.

By Mr. MOSGROVE: The petition of James Adams and others, citizens of Pennsylvania, for the restoration of fractional currency—to the Committee on Banking and Currency.

Also, the petition of honorably-discharged soldiers and sailors of the Army and Navy of the United States in the late war of the rebellion, praying for the passage of the bill (H. R. No. 2625) granting 160 acres of land to volunteer soldiers and sailors—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. O'NEILL: Memorial of the Philadelphia Board of Trade, for the establishment of an American steam marine in competition with steamships of other nations for the foreign trade—to the Committee on Commerce.

Also, the resolutions adopted by the Philadelphia Board of Trade, for an appropriation for the continuance of the work of the hydrographer of the Bureau of Navigation of the Navy Department—to the Committee on Appropriations.

By Mr. RANDALL: Papers relating to the pension claim of Edward W. Powers—to the Committee on Invalid Pensions.

By Mr. ROBERTSON: Papers relating to the contested-election case of Roberston vs. Nash—to the Committee on Elections.

Also, papers relating to the contested-election case of Gibson vs. Sheldon—to the same committee.

By Mr. SHELLEY: The petition of John A. Roberston and others, of Lowndes County, Alabama, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. O. R. SINGLETON: The petition of citizens of Mississippi for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Commerce.

Also, the petition of citizens of Newton County, Mississippi, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. SPEER: The petitions of J. A. Richardson and others, of C. C. Blalock and others, of Wm. Morris and others, and of Isaac Oaks and others, citizens of White County, Georgia, for an appropriation for educational purposes—severally to the same committee.

By Mr. WARD: The petition of the Philadelphia Board of Trade, urging an appropriation to American steamships for ocean mail service—to the Committee on Commerce.

Also, memorial of the Philadelphia Board of Trade, urging Congress to make an appropriation for the Hydrographic Office—to the Committee on Appropriations.

## SENATE.

TUESDAY, May 23, 1882.

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

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

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Secretary of War, in answer to a joint resolution of March 3, 1881, for the investigation of the claim of Florida against the United States for the suppression of Indian hostilities between 1855 and 1860.

Mr. CALL. That is in answer to a resolution submitted by my colleague, [Mr. JONES.] I ask that the communication lie on the table for the present.

The PRESIDENT *pro tempore*. The communication will lie upon the table.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of the internal-revenue gaugers of the first district of Illinois, praying an increase of their fees, subject to certain conditions therein stated; which was referred to the Committee on Finance.

Mr. SEWELL presented a petition of three lieutenant-colonels, ten majors, ten captains, and fourteen lieutenants of the Army, praying for the passage of a bill for compulsory retirement; which was referred to the Committee on Military Affairs.

Mr. JONAS. I present a letter from the governor of Louisiana, transmitting a memorial of the convention of district and parochial levee officers of the State of Louisiana. I ask that the memorial be printed in the RECORD.

The memorial was referred to the Committee on the Improvement of the Mississippi River and Tributaries, and ordered to be printed in the RECORD, as follows:

EXECUTIVE DEPARTMENT, STATE OF LOUISIANA,  
Baton Rouge, May 18, 1882.

DEAR SIR: In compliance with their request, I transmit herewith, through you, to the United States Senate, copy of the memorial of levee commissioners and presidents of police juries in convention assembled. I respectfully request that you present the same at the time deemed by you most suitable.

Respectfully, yours,

S. D. MCENERY, Governor.

Hon. B. F. JONAS, United States Senator.

To the Congress of the United States of America:

The memorial of a convention of the district and parochial levee officers of the State of Louisiana respectfully sheweth that your memorialist, by virtue of the official duties and the personal experience of its members, is practically acquainted with the requirements and necessities of a levee system adequate for the protection of the alluvial lands of the State of Louisiana from the floods of the Mississippi River, and with the local and State resources available for its creation and preservation. The requirements of a levee system demand a continuous and unbroken line of levees of sufficient strength and length to control the maximum floods of the Mississippi, not merely for the protection of private lands but for the exercise of the functions of government and Christian society, and for the uses of commerce and agriculture in fertile and prosperous regions. When the Mississippi River bursts its banks and overflows the subjacent lands the functions of government are suspended in all the territories invaded by it. Jurors, witnesses, and judges cannot attend courts; tax officers are unable to collect licenses and taxes; post-roads and routes are submerged and postal communication paralyzed; the sale of public lands interrupted; the operation of the railroad lines, so necessary for commerce and governmental necessities of all kinds, suspended; the observance of Sunday and the attendance of the people at their respective churches prevented; the labors of agriculture arrested; the sale, exchange, and carriage of goods rendered difficult and often impossible, and the holding of elections by the people rendered impracticable.

If an invading army were to overrun the country the paralysis of business and the suspension and almost annihilation of governmental functions could not be as complete. It is apparent that the devastating floods do not originate within the State of Louisiana, but that they are the product and result of storms raging and extending over an area of a million of square miles of territory under the jurisdiction of one common country. In answer to objections that the citizens of the lower valley of the Mississippi are justly charged with the servitude of discharge of the natural floods of the upper valley, it is claimed that the acts of other communities and States have increased the burden of this servitude by artificial means, so that its effects have been intensified and rendered more difficult to bear. When the United States Government acquired the territory of Louisiana and invited its citizens to settle within its borders, the lands of the great Northwest were unsettled; all the river borders were fringed with forests, and vast basins and reservoirs, dug by natural forces, existed, wherein were accumulated the surplus waters of floods, and there held for slow discharge until the great freshets had passed down the valley to the Gulf. As a result of the detention of floods in the upper valley by storage in forests and natural basins, only small levees in some portions of the lower valley, and no levees at all in other portions, were required, and it was under these circumstances that the United States Government, the great landed proprietor of the valley, sold its lands and received due payment therefor.

How changed is now the aspect. Where a levee of three feet was sufficient one of six feet is required; where one of six feet formerly existed twelve feet is inadequate. On the banks of the Mississippi there are now levees thirty feet high, and they have this year broken. It is evident to an impartial observer that, to our great detriment, the burden of protecting ourselves from the river has been augmented by the erection of embankments along the lines of many of the upper rivers and smaller streams, by which the floods are prevented from overflowing the natural basins and reservoirs, where formerly the surplus water was stored and only gradually discharged, whereas now, confined by embankments, the ordinary and extraordinary stages of water are blended together in the form of great devastating waves that ascend at Cairo to a height of over fifty feet above low water, and, descending upon us, burst and overrun basins which heretofore would have proved more than sufficient to protect us. In addition to this unfavorable change of our position, which has resulted from the progress of wealth and population of the great Northwest, a feeling of grave anxiety is caused by the direct action of the national Government, which is calculated to greatly aggravate the situation of the lower valley of the Mississippi unless you apply an adequate remedy. The Congress seems to be satisfied of its power and duty to improve the navigation of the Mississippi so as to advance commerce, but many members of your honorable body find difficulty in believing that it is within your power to build levees. Therefore