

Also, bill making an appropriation of \$20,000 for the improvement of Big Black River, in the State of Mississippi—to the same committee.

By Mr. F. B. BREWER: Petition of citizens of Fredonia, N. Y., to increase widows' pensions—to the Committee on Invalid Pensions.

Also, petition of citizens of Ellington, N. Y., to increase widows' pensions—to the same committee.

By Mr. COVINGTON: Petition of citizens of Talbot County, Maryland, for the deepening of Dividing Creek—to the Committee on Rivers and Harbors.

By Mr. S. S. COX: Petition of W. M. Folger and 47 others, officers of the Navy, for relief from the stagnation in promotion, &c.—to the Committee on Naval Affairs.

By Mr. ENGLISH: Petition of merchants and business men of Indianapolis, against the bankrupt bill—to the Committee on the Judiciary.

By Mr. ERMENTROUT: Memorial of Philadelphia Board of Trade, favoring the Lowell bankrupt bill—to the same committee.

By Mr. FORAN: Petition of vessel-owners and merchants of Cleveland, Ohio, praying for the continuance of the improvement of the harbor of Grand Marais, Mich.—to the Committee on Rivers and Harbors.

By Mr. FORAN: Petition of leading merchants and citizens of Cleveland, Ohio, praying for the passage of the bill providing for the construction of the Hennepin Canal—to the Committee on Commerce.

By Mr. HALSELL: Petition of W. A. Meredith and 62 others, citizens of Edmonson County, Kentucky, for repeal of tax on whisky—to the Committee on Ways and Means.

By Mr. HOPKINS: Paper relating to the claim for relief of Joseph Snapp—to the Committee on War Claims.

By Mr. JEFFORDS: Papers relating to the claim of Robert S. Woodbury and George W. Woodbury, jr.—to the same committee.

By Mr. LIBBEY: Petition and papers for increase of pension of Henry Barton, late Company C, First Regiment Virginia Light Artillery—to the Committee on Invalid Pensions.

Also, papers to accompany claim of the heirs of the late Joseph P. and Emily I. Tuttle—to the Committee on War Claims.

By Mr. LONG: Petition of W. F. Bradbury and others, asking the passage of the bill to establish the metric system of weights and measures in the Departments of the Government—to the Committee on Coinage, Weights, and Measures.

By Mr. MAYBURY: Petition of Mrs. A. E. Bartholomew, guardian of John Winchell, for allowance of arrearage of pension—to the Committee on Pensions.

By Mr. MORSE: Petition of manufacturers and merchants of Boston, Mass., asking for the ratification of the reciprocity convention with Spain—to the Committee on Foreign Affairs.

By Mr. CHARLES O'NEILL: Resolution of the Board of Trade of Philadelphia, urging the passage at an early day of the Lowell bankrupt bill—to the Committee on the Judiciary.

By Mr. PAIGE: Petition of Joseph Hugill and others, of Akron, Ohio, for the passage of the reciprocity treaty with Mexico—to the Committee on Ways and Means.

By Mr. ROGERS: Memorial of Margaret B. Harwood, widow of Admiral A. A. Harwood, asking for a pension—to the Committee on Pensions.

By Mr. SENEY: Petition of American Mask Company, asking 25 per cent. additional tariff on imported masks—to the Committee on Ways and Means.

By Mr. A. H. SMITH: Memorial of the Philadelphia Board of Trade, urging the passage of the Lowell bankrupt bill—to the Committee on the Judiciary.

Also, remonstrance of 105 citizens of Lancaster County, Pennsylvania, against the ratification of the Spanish treaty—to the Committee on Ways and Means.

By Mr. E. B. TAYLOR: Petition of Betsy M. Taft, for increase of widows' pensions—to the Committee on Invalid Pensions.

Also, petition of Mrs. M. M. Milligan and others, for increase of widows' pensions—to same committee.

By Mr. A. J. WARNER: Petition of David H. Cunningham and others, citizens of Chauncey, Athens County, Ohio, asking for an increase of widows' pensions—to the Committee on Pensions.

Also, petition of William Kirk, asking for arrears of pension—to the Committee on Invalid Pensions.

By Mr. G. D. WISE: Memorial of the Richmond (Va.) public school board, asking the passage of the Blair educational bill—to the Committee on Education.

By Mr. YAPLE: Petition of Sarah Dowling and 20 others, citizens of Mendon, Mich., for increase of widows' pensions—to Committee on Invalid Pensions.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented, and severally referred to the Committee on Pensions:

By Mr. BRAINERD: Of citizens of Warren County, Pennsylvania.
By Mr. BURLEIGH: Of citizens of Fort Ann, and of citizens of Fort Edward, N. Y.

By Mr. J. M. CAMPBELL: Of citizens of Woodbury, Pa.

By Mr. CONNOLLY: Of Thomas T. Morgan and 61 others, residents of Luzerne County, Pennsylvania.

By Mr. CULLEN: Of H. C. Stage and 89 others, citizens and ex-soldiers of Utica; and of A. H. Dale and others, citizens and ex-soldiers of Leland, Ill.

By Mr. CURTIN: Of citizens of Clearfield County, of Kylertown, of New Washington, and of Centre County, Pennsylvania.

By Mr. ELDREDGE: Of 63 citizens of Hudson, Mich.

By Mr. ENGLISH: Of George F. Walker, of Shelby County, Indiana.

By Mr. FORAN: Of 90 citizens of Guernsey County, Ohio.

By Mr. FUNSTON: Of citizens of Altamont; of Edgartown, Johnson County; of McCune; of Mulberry Grove, and of North Lawrence, Kans.

By Mr. GEDDES: Of E. S. Cleland and 150 others, citizens of Richland County, Ohio.

By Mr. HANBACK: Of 100 citizens of Portis, Osborne County, Kansas.

By Mr. HART: Of Elijah Davis and 124 others, citizens of Ohio.

By Mr. D. B. HENDERSON: Of 103 citizens of Butler County, Iowa.

By Mr. HUTCHINS: Of citizens of Westchester County, New York.

By Mr. JOHNSON: Of Warren H. Duell and others, of Johnsburg, N. Y.

By Mr. KEIFER: Of O. P. Crabb and 200 others, citizens of Madison County, Ohio.

By Mr. MILLIKEN: Of G. R. Barstow and others, of Newcastle; of Joseph G. Sawyer and others, of East Hampden, and of John Frisbee and others, of Winnegance, Me.

By Mr. MORRILL: Of R. L. Sturges and 126 others, of Kansas.

By Mr. MUTCHLER: Of citizens of Easton County, Pennsylvania.

By Mr. NUTTING: Of 124 citizens of Madison County; of 67 citizens of Oswego County, and of 53 citizens of Oswego County, New York.

By Mr. G. A. POST: Of citizens of Grover; of Fairdale; of Ariel; of 60 citizens of South Gibson; of 43 citizens of North Jackson; of 63 citizens of Milan, and of 125 citizens of Honesdale.

By Mr. A. H. SMITH: Of 120 citizens of Lancaster County, Pennsylvania.

By Mr. STRAIT: Of 283 citizens of Litchfield, Minn.

By Mr. STRUBLE: Of H. A. Scott and 125 others, of O'Brien County; of H. A. Jones and 100 others, citizens of Sac County; of A. R. Matfield and 43 others, citizens of Carroll County; of David Collins and 70 others, citizens of Calhoun County; of R. A. Horton and 62 others, of Calhoun County; of Joseph M. Richards and 41 others, of Clay County, and of Lewis Kinner and 63 others, of Madison County, Iowa.

By Mr. E. B. TAYLOR: Of citizens of Ashtabula County; of A. T. Crafts and others, of Portage County, and of M. D. Wilsey, of Denmark, Ohio.

By Mr. J. D. TAYLOR: Of William Russell and others, of Belmont County, Ohio.

By Mr. VALENTINE: Of J. A. Armour and 52 others, citizens of Custer County; of William D. Meeker and 35 others, of Custer County; of William Sexton and 62 others, of Genoa, Nance County; of W. T. McFarland and 62 others, of Stanton County; of A. V. Murphy and 110 others, of Shelton; of E. P. Drake and 75 others, of Cedar County; of M. V. Day and 121 others, of Ainsworth, Brown County, and of L. H. Harris and 124 others, of Saint Paul, Nebr.

By Mr. WILKINS: Of Simon B. Kersteter and 70 others, citizens of Coshocton County, Ohio.

By Mr. WINANS: Of M. S. Newman and 40 others, soldiers of De Witt, Clinton County, Michigan.

SENATE.

FRIDAY, January 9, 1885.

Prayer by Rev. A. J. KYNETT, D. D., of Philadelphia.

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

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 8th ultimo, a letter from the Chief of Engineers and accompanying report of Lieut. Col. George W. Elliott, Corps of Engineers, showing the necessity for the enlargement of the basin at Block Island, R. I., for the proper accommodation of the shipping seeking refuge at that place, and submitting an estimate of the cost thereof; which, with the accompanying papers, on motion of Mr. SHEFFIELD, was referred to the Committee on Commerce, and ordered to be printed.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Secretary of the Navy, transmitting the report of the board of officers appointed to investigate the comparative merits of anthracite and bituminous coal for ordinary naval uses. If there be no objection the communication will be printed, and, together with the accompanying papers, referred to the Committee on Naval Affairs.

The accompanying papers are quite voluminous, and if the Committee on Naval Affairs should think it desirable to print them they can report a resolution for that purpose.

HOUSE BILLS REFERRED.

The bill (H. R. 4273) for the relief of Madison R. Calvert was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. 7329) granting right of way to the Fremont, Elkhorn and Missouri Valley Railroad Company across the Fort Robinson military reservation, in the State of Nebraska, was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. 7871) to remove the political disabilities of W. H. Ward, and the bill (H. R. 7872) to remove the political disabilities of Gabriel H. Hill, of Virginia, were read twice by their titles, and referred to the Committee on the Judiciary.

The joint resolution (H. Res. 309) extending the permission granted Maj. William Ludlow by the act of February 28, 1883, to accept a civil position was read twice by its title, and referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

Mr. HARRISON. I present the petition of a large number of business men of Evansville, Ind., praying for the passage of the bill providing for the construction of the Hennepin Canal. I move that the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. HARRISON. I also ask leave to present a communication from the cigar-makers' union of Union City, Ind., opposing any alteration of the tariff on imported cigars in the Mexican treaty. It is not quite in the form of a memorial, but I ask unanimous consent to present it, and move its reference to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received and referred to the Committee on Foreign Relations.

Mr. SAWYER presented memorials of the cigar-makers' unions of Milwaukee, Oshkosh, Eau Claire, and Watertown, Wis., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. LAPHAM presented a memorial of Cigar-makers' Union No. 12, of Oneida, Madison County, New York, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. SEWELL. I present a memorial of cigar-makers of Newark, N. J.; a memorial of the cigar-makers' union of Jersey City, N. J., and resolutions adopted by the Irish-American Union of Hudson County, New Jersey, remonstrating against the ratification of the proposed Spanish reciprocity treaty on the ground of its interference with the industrial interests of the country, particularly with regard to the iron-mining industry. I move that the memorials be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. PALMER. I present memorials of citizens of forty-eight cities and towns of Michigan, remonstrating against the establishment of a Government monopoly of the telegraph business. I move that the memorial be referred to the Committee on Post-Offices and Post-Roads.

The motion was agreed to.

Mr. PLATT. I present a communication from the cigar-makers' union of Danbury, Conn., which, although addressed to me, is in the nature of a memorial, remonstrating against the ratification of the proposed Spanish treaty. I ask that it be received, and move its reference to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The communication will be received and so referred if there be no objection.

Mr. COCKRELL presented a memorial of the Academy of Sciences of Saint Louis, Mo., in favor of the removal of the duty of 25 per cent. on foreign scientific books and 40 per cent. on foreign scientific apparatus, and that they be allowed to enter free of duty; which was referred to the Committee on Finance.

He also presented a memorial and resolutions adopted by the board of directors of the Merchants' Exchange of Saint Louis, held on the 5th of January, protesting against the ratification of the Spanish-American treaty, and giving their reasons therefor; which were referred to the Committee on Foreign Relations.

Mr. COCKRELL. I present certain evidence to accompany the bill (H. R. 5960) granting a pension to George Zieffe. The evidence includes the affidavits of Capt. A. J. Stewart, Dr. C. A. Williams, Dr. Thomas W. McArthur, and Lieut. Col. A. J. Swain; the petition of George Zieffe, and of many citizens of his residence; the affidavit of Lieutenant Hereford; the certificate of Dr. McArthur, and letter from the Secretary of War, transmitting official copies of orders made at the time referred to. I ask that these papers be received, and move their reference to the Committee on Pensions.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I am directed by the Committee on the Library to report back a number of petitions praying for the purchase of the picture painted by Miss Ransom of General Thomas, and to report an

amendment on the subject which will be offered to the sundry civil appropriation bill.

The PRESIDENT *pro tempore*. If there be no objection the amendment will be printed and referred to the Committee on Appropriations.

Mr. SHERMAN. I present the petition of Miss Caroline L. Ransom, of Washington, D. C., offering to sell to Congress her portrait of Maj. Gen. George H. Thomas, and ask that it be placed on file with the petitions on this subject just reported by me from the Committee on the Library.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

Mr. SHERMAN. I am also directed by the Committee on the Library to report an amendment to the sundry civil appropriation bill for the purchase of the picture of the electoral commission.

The PRESIDENT *pro tempore*. If there be no objection, the amendment will be printed and referred to the Committee on Appropriations.

Mr. JACKSON. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. 6328) granting a pension to Samuel W. Bowling, to submit an adverse report thereon.

Mr. COCKRELL. Let the bill be placed upon the Calendar.

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

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. 4708) granting a pension to Moses Fullington, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. JACKSON. I am also instructed by the same committee, to whom was referred the bill (S. 2511) relating to claim agents and attorneys in pension cases, to report it favorably without amendment, and ask that it be placed upon the Calendar. I am also directed to give notice that I shall ask the Senate to take the bill up for consideration on Monday morning during the morning hour.

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

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the petition of George N. Marden, praying compensation for land alleged to have been taken by the Government for the distributing aqueduct in Washington, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. DOLPH, from the Committee on Public Lands, to whom was referred the bill (S. 2483) to amend section 2347 of the Revised Statutes, relating to the entry of coal lands, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 27) to amend an act entitled "An act to exclude the public lands in Alabama from the operation of the laws relating to mineral lands," approved March 3, 1883, and to extend the provisions of said act and the amendments thereto to the public lands in the States of Mississippi, Arkansas, Louisiana, and Florida, reported it with amendments.

Mr. WILSON, from the Committee on Pensions, to whom was referred the bill (S. 2231) granting a pension to Mrs. Kate A. Drummond, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 1256) increasing the pension of Ben Morgan, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 5336) granting a pension to Maria C. McPherson, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. CULLOM, from the Committee on Pensions, to whom was referred the bill (H. R. 2920) for the relief of John Johnson, reported it without amendment, and submitted a report thereon.

He also, from the same committee to whom was referred the bill (S. 2282) for the relief of John Johnson, moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. 6665) for the relief of James Stack, reported it without amendment, and submitted a report thereon.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (H. R. 2987) restoring Rebecca Walcott to the pension-roll, reported it without amendment, and submitted a report thereon.

DISTRIBUTION OF DOCUMENTS.

Mr. SHERMAN. I am directed by the Committee on the Library, to whom was referred the bill (S. 2449) to provide for the distribution of the statutes of the United States and the CONGRESSIONAL RECORD to designated incorporated bodies, institutions, and associations within the several States and Territories, to report it without amendment. I ask for its immediate consideration, as it relates to the distribution of documents and should be acted upon.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It requires the Secretary of the Interior to furnish to incorporated bodies, institutions, and associations to be designated to him by Senators of the several States respectively, and by the Representatives in Congress, and by the Delegate from each

Territory, one bound copy of the statutes of the United States enacted by the Forty-eighth Congress and each succeeding Congress, and of the CONGRESSIONAL RECORD for that Congress and each future Congress, in the manner provided in sections 501 and 502 of the Revised Statutes of the United States for the distribution of other books and public documents therein mentioned.

Mr. MORGAN. I think we ought to amend the bill so as to furnish a copy of these papers, particularly the statutes, to the supreme courts of the Indian Territory, the Cherokee, Choctaw, Chickasaw, and Creek Nations. Those tribes have supreme courts well organized; they publish their decisions in very excellent form, and they are learned opinions, worthy of the bench in any part of the country. I attempted, some sessions ago, at the instance of a gentleman of the bar of the Creek Indian country, who is a full-blooded Indian, but a very accomplished lawyer, to have a similar provision made, and introduced a bill to that effect, which I believe the Senate passed, but at all events it never became a law. This being a good opportunity, I suggest to the Senator who reported the bill whether that would not be a good amendment to it.

Mr. SHERMAN. This bill does not increase or change the number of persons receiving public documents. It follows the language of the law. It simply provides that with the other documents that are distributed under the existing law a copy of the United States Statutes at Large and of the CONGRESSIONAL RECORD shall be sent. So I do not think the amendment the Senator suggests would answer the purpose. The bill does not increase, to any extent whatever, the number of persons to whom documents are sent. It only provides for sending them two other documents which they do not now receive.

I have no objection to the amendment of the Senator if he desires to frame it; but if he wishes to increase the number of persons entitled to documents, this bill does not do that; it does not change the law in that respect.

Mr. MORGAN. Of course if my amendment would not be effectual I do not wish to disturb the manner and form of the bill.

Mr. SHERMAN. I desire to say also that this measure is recommended by the Secretary of the Interior and is very much desired. Indeed, it seems to be absolutely necessary now, since the Statutes at Large are printed at the Public Printing Office and the RECORD is printed there, that these documents should be furnished in this way by the public authorities.

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

VESSELS OF GREELY RELIEF EXPEDITION.

Mr. CAMERON, of Pennsylvania. I am instructed by the Committee on Naval Affairs to report back favorably the bill (S. 379) to authorize the transfer of one of the vessels of the Greely relief expedition to the Treasury Department for a revenue-cutter and the retention of the other two for use in the Navy, and I ask for its immediate consideration.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. HOAR. If it leads to no debate I shall not object. If it leads to debate, I must object.

Mr. CAMERON, of Pennsylvania. If it leads to any debate, I shall withdraw it.

Mr. HOAR. I desire to reserve the right to object if the bill leads hereafter to discussion, except the Senator's explanation; I do not object to that.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks leave to object to the bill at any stage. Is there objection to that? The Chair hears none. The bill is before the Senate as in Committee of the Whole and will be read.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the Secretary of the Navy be, and is hereby, directed to transfer to the Treasury Department, for use as a revenue-cutter in the waters of Alaska, one of the vessels of the late Greely relief expedition, and place the other two for use in the Navy, as surveying vessels or otherwise.

Mr. CAMERON, of Pennsylvania. I will state that under the laws which exist at present the Secretary of the Navy is compelled to offer these vessels at public sale. I will read an extract from a letter from C. L. Hooper, captain United States Marine Service, addressed to the Senator from Oregon [Mr. DOLPH]. The captain says:

For a number of years our vessels have been called upon to cruise in the Arctic regions, but no provision has been made to furnish us with suitable vessels. Our little cutters are all right for the purpose for which they were intended, but are unfit for the work which we now have to do on the coast of Alaska, being entirely too small and not sufficiently strong in their build. The Corwin, a little vessel intended for service on the Columbia River, has been five successive years cruising from May until October in the waters of Behring Sea and the Arctic Ocean; and this without any special fitting other than a thin sheathing of oak to protect the pine plank from chafe by the ice. She has accommodation, by packing close, for thirty-seven persons; but almost every year it is found necessary, in order to relieve persons actually in distress, to take on board many (sometimes as high as forty) in addition to her regular complement. Of course the condition of so many people confined in such small quarters is very bad, and there is constant danger of disease breaking out. Therefore there is nothing to do but end the voyage and return to San Francisco.

Then her capacity for carrying provisions is entirely too small. It is criminal to send a vessel into the Arctic Ocean to take her chances in the ice and run the

risks our vessels run each year without sufficient food on board to sustain life during the winter should she become fast.

The coal capacity of the Corwin is also entirely too small, and going out of the Arctic to coal several times each summer occupies a good deal of time which can be poorly spared.

If the Revenue-Marine Service is to be required to send a vessel into the Arctic Ocean each year to protect the interests of commerce and enforce the laws, a suitable vessel should be furnished for the purpose. I am not sufficiently acquainted with the relative merits of the Bear and Thetis to decide which would be the more suitable. It is probable that either would answer the purpose. The Alert is perhaps a little larger than we need.

This subject was referred to the Secretary of the Navy, and a letter was received from him this morning, which is in these words:

NAVY DEPARTMENT, Washington, January 9, 1884.

SIR: In response to your letter of January 8, inclosing a copy of Senate bill No. 2379, in relation to the vessels of Greely relief expedition, I have the honor to reply that in the annual report of this Department of December 1, 1884, the following opinion is expressed:

"The joint resolution of February 13, 1884, directed the sale of the vessels which might be purchased for the Greely relief expedition. The sale has not yet been made, and it is recommended that the Thetis and Bear be retained for surveying vessels, or to cruise in the waters of Alaska, or for use in the training service."

The views above expressed are confirmed by further consideration of the subject. It is very desirable that the Thetis and Bear should be retained for that peculiar service of the Government for which they are specially and admirably adapted.

Very respectfully,

W. E. CHANDLER,
Secretary of the Navy.

HON. J. D. CAMERON,
Chairman of the Committee on Naval Affairs, United States Senate.

From this letter it will be seen that one of the vessels will not be requisite for the service of the Navy, and it can be very readily transferred to the Revenue Marine. I hope the bill will be passed.

Mr. MCPHERSON. I should like to supplement the statement made by the Senator from Pennsylvania by stating what I understand to be the true condition of affairs respecting these vessels. The law, it will be remembered, authorized their purchase for a special purpose, and that purpose having been accomplished, the Secretary of the Navy was required to immediately dispose of the vessels. It is well known that owing to the very small demand for vessels of this class, or indeed of any class, at the present time, it would be impossible perhaps to sell them for anything like the value that they may have to the Government for other purposes. If I understand the Senator correctly, the bill simply authorizes the Secretary of the Navy either to sell the vessels or to retain them in the service, as is deemed to be for the best interests of the country.

Mr. CONGER. Let the bill be read again.

The PRESIDING OFFICER (Mr. GARLAND in the chair). The bill will be again read.

The Chief Clerk read the bill.

Mr. MCPHERSON. I should like to suggest to the Senator from Pennsylvania if it would not be wiser to use the word "authorized," so that if an offer should be made for one of these vessels the Secretary of the Navy would have full authority to sell it, or it could be diverted to the purpose spoken of if it was found to be available. The bill leaves him no option whatever; it simply directs him.

Mr. CAMERON, of Pennsylvania. I have no objection whatever to his being authorized to retain the two vessels in the service, but the other one, I think, should be directly transferred to the Treasury Department for the use of the Revenue-Marine Service. I will so modify the bill.

Mr. MCPHERSON. While the Senator from Pennsylvania is preparing an amendment, I should like to make an inquiry of him as to what action has been taken by the Government touching the vessel which was presented to us by Great Britain. I believe the bill of the Senator from Pennsylvania includes that too. I have heard it stated somewhere that it was the purpose of the Government to tender it back to the Government of Great Britain accompanied with thanks. I do not know but what we may complicate the situation if it should be the desire or purpose of the Government to send the ship back to Great Britain, and I ask whether we should not be legislating in such a way that it would be impossible to do that? I ask for information, as I am not thoroughly advised upon that question.

Mr. CAMERON, of Pennsylvania. In reply to the Senator from New Jersey I will state that from the letter of the Secretary of the Navy received this morning I am led to believe that he is compelled under the law to offer all these vessels for sale, including the one received from Great Britain. Whether there has been anything done by Congress relative to the return of that vessel to Great Britain with the thanks of Congress, I do not know; it has not been done since my return to the Senate; but I will put in an amendment, at the suggestion of the Senator, which I think will remedy his objection. The bill would read as amended:

That the Secretary of the Navy be, and is hereby, directed to transfer to the Treasury Department, for use as a revenue-cutter in the waters of Alaska, one of the vessels of the late Greely relief expedition, and is hereby authorized to place the other two for use in the Navy as surveying vessels or otherwise.

So that he need not place the two there unless he sees fit. I think the amendment covers the Senator's objection.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. In line 6, after the word "and," it is proposed to insert the words "is hereby authorized to;" so as to read:

And is hereby authorized to place the other two for use in the Navy as surveying vessels or otherwise.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

LUTHER STATUE ASSOCIATION.

Mr. INGALLS. I am directed by the Committee on the District of Columbia, to which was referred the bill (H. R. 4088) to incorporate the Luther Statue Association, to erect and maintain a monument or statue in memory of Martin Luther in the District of Columbia, to report it with the recommendation that it do pass; and at the request of the gentlemen interested I will ask the indulgence of the Senate for the present consideration of the bill.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent that the bill be now considered.

Mr. COCKRELL. Let it be read for information.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Chief Clerk read the bill.

Mr. CONGER. Mr. President—

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. COCKRELL. I should like to ask one question of the Senator reporting it, and that is why this incorporation can not be brought into existence under the general laws of the District of Columbia without this special legislation?

The PRESIDENT *pro tempore*. Strictly the Chair must ask if there be objection to the present consideration of the bill.

Mr. COCKRELL. I object to it unless that explanation can be given.

The PRESIDENT *pro tempore*. If there be no objection the Chair will allow debate to go on by unanimous consent.

Mr. CONGER. The general law provides a limit to the powers of a corporation. In this case the Lutherans of the United States have erected a statue on the point of church property fronting the Thomas Circle, and the land is a part of a point of the church property on which the Lutheran church is. Under the general law there is a limitation of the continuance of the corporate powers, which would make it necessary to watch and have new laws passed. All they desire is that there shall be a number of gentlemen of that denomination who shall succeed perpetually to the control and keeping of this statue.

Mr. COCKRELL. Five thousand feet is the amount of land they are to have by the bill. Is not that not much more than is occupied by the statue?

Mr. CONGER. But the bill was introduced before the site was selected and before the statue was brought to this country from Germany. Since that time the Lutheran Memorial Church has agreed to donate and as far as it can do so has donated the little point of land fronting the Thomas Circle between Vermont avenue and Fourteenth street. The statue has arrived here and been erected and placed there, and the amount of land is limited to whatever of that little point has been given by the church association.

Mr. COCKRELL. Ought there not to be a limitation in the bill? I know where the statue is, and I have no objection in the world to the bill if you limit it to the actual amount of land used there, but do not make it sufficient to cover a square or block and exempt it from taxation.

Mr. CONGER. The report of the House committee says:

The only power given is to erect and keep up the monument, to procure 5,000 square feet or less of ground in the District of Columbia whereon to build the monument, and to exempt the land so held and the monument, &c., thereon from taxation. But the proposed site, the church lot, is already exempt from taxation.

Except that the bill has come from the House, and the gentlemen composing this association are very anxious to have their organization so that they can perfect their arrangements, there would be no objection to limiting the bill as to the amount of property that may be held.

Mr. COCKRELL. That is the only point in the world. It ought not to be 5,000 feet, which would cover a whole block of land they may acquire to be exempt from taxation for all time to come.

Mr. CONGER. If the Senator remembers that little point—

Mr. COCKRELL. I know where it is exactly.

Mr. CONGER. The street bounds it on two sides, and the church on the other. There can be no encroachment upon any other land.

Mr. GARLAND. Let the last section of the bill be read.

The PRESIDENT *pro tempore*. The Chief Clerk will report for information the last section of the bill, if there be no objection.

The Chief Clerk read as follows:

SEC. 4. That the lands acquired and held by said body corporate, and the statue erected thereon, and all the improvements and appurtenances thereto, shall be

entirely exempt from taxation, and shall not be chargeable or assessed for any purpose whatever.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GARLAND. I wish to offer an amendment to the fourth section by putting in the usual proviso, that this act may be modified, repealed, or amended at any time Congress may see fit.

Mr. CONGER. I have no objection except that the bill would have to go back to the House where it might not be reached this session.

Mr. GARLAND. It is a very important matter, however, because the omission of such a proviso has given trouble in every one of these cases. It gives rise to a great deal of trouble, and I think if the Senator will reflect for a moment he will agree that it should be put in here, although it may occasion some delay.

Mr. CONGER. For every other denomination in the country we have passed such laws, and this is for a little piece of land not thirty feet on a side and twenty feet across the base. The statue having been already erected there, a very numerous denomination having contributed to its erection, and it being left in the hands of gentlemen of that denomination, and being so small a piece of land, it seems to me that the Senate might run the risk of passing the bill without sending it back to the House, where very probably it would not be reached this session. I hope the Senator will not insist on his amendment, although I have no objection to it in the world except that it will cause delay.

Mr. GARLAND. The Senator from Missouri [Mr. COCKRELL] has already indicated some possible objection in the future or some difficulties that might arise in reference to the bill. It is the experience almost every day in this country that such acts give rise to trouble and confusion which we re not anticipated at the time of their passage. This is a safeguard that I think should be thrown around all such bills. I dislike very much to interfere in a matter the Senator from Michigan has so much at heart, but I think the amendment should be put on the bill.

Mr. CONGER. Is there any question but what Congress retains the power, if public occasion requires it, to alter, to amend, or repeal all such bills?

Mr. GARLAND. There is very great question, especially when intervening rights grow up or if in a subsequent transaction it should be undertaken to change or modify the status of the property involved. The right should be reserved at the time of the passage of the charter. I will state to the Senator from Michigan that in my experience and observation there is no question that has given rise to more serious controversies in the courts. I dislike to interfere with this matter at this time, but I think the amendment should be made.

Mr. CONGER. The Senator will bear in mind that this property is now, and will be until transferred under some agreement, actually in the occupancy of the church itself, exempt from all taxation, being a little point of land just large enough for the base and pedestal of the statue. Otherwise, if this right should not be given, it would be under the general laws exempt property. It seems to me there can be no risk about this little piece of land.

The PRESIDENT *pro tempore*. The Senator from Arkansas moves an amendment which will be read.

The CHIEF CLERK. It is proposed to add to section 4:

Provided, That this act may be modified, repealed, or amended whenever Congress may see fit to do so.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

Mr. CONGER. I will say that I would rather the amendment should be adopted than to have the bill go over and not have speedy consideration. Therefore, I do not object to it, hoping that it may be reached in the other House and passed there.

The amendment was agreed to.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

BILLS INTRODUCED.

Mr. CULLOM introduced a bill (S. 2514) granting a pension to David T. Hoover; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McPHERSON introduced a bill (S. 2515) for the relief of Lanman & Kemp; which was read twice by its title, and referred to the Committee on Finance.

Mr. CAMERON, of Wisconsin, introduced a bill (S. 2516) to allow a pension to George F. West; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MANDERSON introduced a bill (S. 2517) providing for the distribution of certain copies of the Official Register of the United States; which was read twice by its title, and referred to the Committee on Printing.

Mr. PALMER introduced a bill (S. 2518) to prevent the introduction and diffusion of contagious and infectious diseases in the United States, and to promote the general sanitary welfare of the people; which

was read twice by its title, and referred to the Committee on Epidemic Diseases.

Mr. SAWYER introduced a bill (S. 2519) to declare valid the titles to certain lands sold by the land officers of the United States, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COCKRELL introduced a bill (S. 2520) for the relief of the heirs of colored soldiers who served in the war of the rebellion; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LAPHAM introduced a bill (S. 2521) for the relief of Mrs. Antonia B. Lynch, widow of Capt. Dominick Lynch, United States Navy, deceased; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT ON APPROPRIATION BILL.

Mr. VOORHEES submitted an amendment intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

PUBLIC POLICY OF CONFEDERATE STATES EXECUTIVE DEPARTMENT.

The PRESIDENT *pro tempore*. "Concurrent and other resolutions" are in order. The Chair lays before the Senate a resolution which went over yesterday under objection.

Mr. MORGAN. Mr. President—

The PRESIDENT *pro tempore*. The resolution submitted yesterday by the Senator from Connecticut [Mr. HAWLEY] will first be reported. The Chief Clerk read as follows:

Resolved, That the President of the United States be, and he is hereby, requested, if in his opinion it be not incompatible with the public interest, to communicate to the Senate a historical statement concerning the public policy of the executive department of the Confederate States during the late war of the rebellion, reported to have been lately filed in the War Department by General William T. Sherman.

Mr. HAWLEY. I have been requested by the senior Senator from Tennessee [Mr. HARRIS] to let this lie over until Monday. I am quite willing to do so, but I ask unanimous consent that it may be laid before the Senate on Monday as of to-day.

The PRESIDENT *pro tempore*. The Senator from Connecticut asks unanimous consent that the consideration of this resolution be postponed until Monday next and that it may be laid before the Senate then on the call for resolutions. Is there objection? The Chair hears none, and it is so ordered.

Mr. HOAR. That does not make it a special order, but gives the same right to object then as now, so as to have it go over one day.

The PRESIDENT *pro tempore*. The resolution was introduced yesterday and objected to, and under the practice adopted by the Chair, with the acquiescence of the Senate, a resolution that is objected to and goes over one day is the next day laid before the Senate when the order of resolutions is reached. That has now been done. The unanimous consent the Senator from Connecticut asked for is that it be again laid before the Senate on Monday as of to-day with the same rights. Is there objection? The Chair hears none, and it is so ordered.

TESTS OF IRON AND STEEL.

Mr. MANDERSON submitted the following resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That the report of tests of iron and steel and other materials for industrial purposes, by Maj. F. H. Parker, commanding the Watertown arsenal, transmitted to the Senate by the Secretary of War on the 3d of December, 1884, be printed, and that 3,500 additional copies be printed, of which 1,000 copies shall be for the use of the Senate, 2,000 copies for the use of the House, and 500 copies for the use of the War Department.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, announced that the President had on the 8th instant approved and signed the act (S. 2393) to change the name of the Slater National Bank of North Providence, R. I.

UNION PACIFIC RAILROAD.

Mr. SLATER. I now move that the Senate proceed to the consideration of Order of Business 761, being House bill 181.

The PRESIDENT *pro tempore*. The Senator from Oregon asks unanimous consent—

Mr. HOAR. What bill is that?

The PRESIDENT *pro tempore*. That the Senate now proceed to the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon.

Mr. WILSON. Before that is done I desire to offer a resolution.

The PRESIDENT *pro tempore*. The Senator from Oregon will withhold his motion until the call for resolutions is gone through with. It will then be in order to move to take up the bill.

Mr. SLATER. Very well.

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

Resolved, That the Secretary of the Interior be, and hereby is, directed to communicate to the Senate a copy of the report of the Government directors of the Union Pacific Railroad Company for the year 1884.

FORT GREENE.

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

Resolved, That the Secretary of War be, and he hereby is, directed to report without unnecessary delay to the Senate whether any private person is in the possession and occupation of Fort Greene, in Newport, R. I., belonging to the United States, and, if so, under what authority does such person hold the same. Whether the said Fort Greene is of any present use to the Government of the United States, and, if not, will the United States probably have any future use for the said fort; and if there is no present or prospective use for the said fort, whether or not the same ought not to be sold, and the proceeds thereof be covered into the Treasury of the United States, and if the said Fort Greene is not of any present use to the United States but will probably be of use thereto hereafter, whether the said Fort Greene may not well be committed to the care and custody of the city of Newport, to be by the said city used as a public park until further action of Congress or of the Secretary of War is had in reference thereto.

FORFEITURE OF OREGON LAND GRANT.

The PRESIDENT *pro tempore*. Concurrent and other resolutions are still in order. If there be no further resolutions that order is closed.

Mr. SLATER. I now move that the Senate proceed to the consideration of House bill 181.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that the Senate proceed to the consideration of the bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon. This bill passed the Senate on the 6th of January. The Senator from Alabama [Mr. MORGAN] moved that the vote passing the bill be reconsidered.

Mr. HOAR. I desire to ask whether the Calendar should not be laid before the Senate before that motion is put?

The PRESIDENT *pro tempore*. The Calendar is before the Senate. The Chair regularly should have stated that the Calendar under Rule VIII was before the Senate after the call for resolutions was concluded.

Mr. HOAR. I desire to ask the Senator from Oregon to withhold his motion for a few minutes. The bill for the relief of the First National Bank of Newton, Mass., came before the Senate just before the holidays. The report was read; the bill was debated; and one Senator desired to make some further examination of the report. I think the bill would then have been disposed of and would now be disposed of very shortly, and if it is not disposed of the whole time of the Senate will have been wasted which was spent in considering it on that day. I am very desirous that the bill should be disposed of and passed if possible.

The PRESIDENT *pro tempore*. It is the duty of the Chair to state that debate on this motion is not in order, nor is debate on the motion to reconsider in order.

Mr. HOAR. I so understand the matter; but if the vote should be reconsidered then I suppose on reconsideration the bill would be open to debate as originally. I suppose that was the expectation of the Senator from Oregon.

Mr. SLATER. I should like very much to accommodate the Senator from Massachusetts, but I think under the circumstances I ought not to yield.

The PRESIDENT *pro tempore*. The motion is not open to debate except by unanimous consent. The question is on agreeing to the motion of the Senator from Oregon that the Senate now proceed to consider the motion to reconsider submitted by the Senator from Alabama.

Mr. MORGAN. I ask unanimous consent of the Senate to make a statement in regard to this motion.

The PRESIDENT *pro tempore*. The Senator from Alabama asks unanimous consent of the Senate to submit some remarks upon the motion. Is there objection?

Mr. HOAR. I think I ought to object under the circumstances.

Mr. MORGAN. I merely desire to make a statement which will occupy only a minute.

Mr. HOAR. Very well, then; I will not object.

Mr. MORGAN. That bill passed and I made the motion to reconsider the vote by which it was passed, not for the purpose of interfering with the bill or delaying any action upon it or for any other cause than this: The same question precisely was before the Senate on a conference report which has not yet been considered by the Senate, the two Houses having disagreed on the question. The committee of conference have reported, and I have not yet drawn the attention of the Senate to that report and asked them to take it up. That question ought to precede this. I made the motion to reconsider in order that I might have an opportunity to ascertain from Senators who voted against my amendment to the Oregon bill, and who had previously voted for that amendment to the other bill, whether they were influenced by the consideration that they had changed their opinion, or only by the fact that they supposed the amendment was not a necessary amendment under the existing state of facts on the Oregon bill. I have satisfied myself that some of the Senators at least who voted against the amendment took the ground that it was not a necessary amendment to that bill; that there was really practically no question in the Oregon case as between the holders of the bonds of the railroad company and the corporation or the Government of the United States.

Now, having satisfied myself, and being able to state that I am so satisfied, I propose to yield to the judgment of the Senate thus ex-

pressed, believing that the judgment of the Senate as so expressed by their vote was not a judgment against the merits of the amendment, but was a judgment against its practicability, or rather its being necessary upon this bill. I will therefore ask the unanimous consent of the Senate that I may withdraw my motion to reconsider. After the explanation I have made I ask the unanimous consent of the Senate that I may withdraw my motion to reconsider.

The PRESIDENT *pro tempore*. The Senator from Alabama asks leave to withdraw his motion to reconsider. Is there objection? The Chair hears none, and the motion is withdrawn. The bill stands passed with the amendments of the Senate. The Calendar, under Rule VIII, is before the Senate.

RIGHTS IN RAILROAD LAND GRANTS.

Mr. MILLER, of California. Mr. President—

The PRESIDENT *pro tempore*. The first case on the Calendar will be stated.

The bill (S. 1445) to provide for the settlement of the rights of the States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress was announced as first in order on the Calendar under Rule VIII.

Mr. MORGAN. I ask that that go over to the Calendar under Rule IX.

Mr. HOAR. What has become of the Newton National Bank bill?

The PRESIDENT *pro tempore*. It is not yet reached.

Mr. HOAR. I thought that was up before partly.

Mr. MORGAN. I ask that the bill announced from the Chair go over to the other Calendar.

The PRESIDENT *pro tempore*. The Senator from Alabama objects to the consideration of this bill; and it will be passed over and take its place under Rule IX.

FIRST NATIONAL BANK OF NEWTON, MASS.

The bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass., was announced as next in order.

Mr. CONGER. Is that under Rule VIII?

The PRESIDENT *pro tempore*. The Chair will state the question. The bill has been heretofore read and considered as in Committee of the Whole and the amendments reported agreed to. The bill is still open to amendment.

Mr. CONGER. Is it now to be considered under Rule VIII?

The PRESIDENT *pro tempore*. Now under Rule VIII.

Mr. CONGER. I think it ought to be considered under Rule IX, to give further opportunity of discussion and further opportunity of examination.

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

Mr. HOAR. I move to take up the bill for consideration at the present time notwithstanding the objection.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate proceed to the consideration of the bill notwithstanding the objection. The question is on agreeing to that motion.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

Mr. HOAR. Mr. President, the Senator from Michigan put a question the other day which might as well be answered now; it will take but one moment, if the Senate will give me its attention.

I can say that this whole case is in a nutshell. This is a bill authorizing the payment of interest to the First National Bank of Newton upon a claim against the Government. The teller of the bank and the cashier or teller in the United States subtreasury at Boston entered into a fraudulent arrangement by which certain property of the bank was delivered to this agent of the United States for the purpose of being exhibited to the examiners of the subtreasury to make the money in his hands apparently good.

After the transaction was discovered the United States seized these assets of the bank, which were interest-paying securities and cash, and \$46,000 of them bonds of the United States bearing interest. The Supreme Court of the United States thereupon held that the United States was liable for that property; that the transaction did not make any change of property whatever; that the fraudulent knowledge by the United States teller was the knowledge of the United States, and of course—I do not know that the court said that, but it is apparent to everybody—that the teller was no agent of the bank for any purpose of disposing of this property either in that way or any other. So there had been no agency on the part of the bank. The principal sum has been paid, but this property was withheld from the bank for a large number of years, leaving the bank to fail, and the stockholders to be responsible for its debts, under the general statute, to the extent of their stock.

The committee examined the whole matter; the Senator from Tennessee [Mr. JACKSON] made a very thorough, patient, and faithful examination of the precedents, and he found that the precedents were very numerous, nearly uniform, in favor of paying interest in such cases. I can not see how any Senator can hesitate as to the duty of the United States. Here it seized upon its own interest-bearing secu-

rities, kept them cautiously from its creditor for thirteen or fourteen years, got the benefit of the interest which was due, and did not pay it, though the original seizure was a tort. That would apply to the \$46,000 of its own securities. The entire property was withheld from the bank—the securities and the cash. Its debts were running on upon which it was bound to pay interest. The Supreme Court of the United States in the decision quoted by the Senator from Tennessee declared on a similar case, which was sent to the Court of Claims with a view to ascertaining what was the customary policy of the Government in like cases, that an examination of the legislation of this country showed that it is the established policy of the United States to pay interest in all such cases. That is the whole story.

Mr. CONGER. Mr. President, there has been no answer to the statement I made the other day, which ought to preclude at once, if true, the passage of this bill. There is no pretense in the answer just attempted that there is over \$46,000 of the securities that were drawing interest which would have inured to the benefit either of the Government or of the party. There is an appropriation here, I am told, of \$350,000, if that is the amount named in the bill.

Mr. INGALLS. Let the bill be read, that we may hear what it is.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The bill will be read if the Senator from Michigan yields.

Mr. CONGER. I do yield, but this should not be taxed to my five minutes, and my time taken up in reading.

The PRESIDING OFFICER. The Senate has voted to consider the bill, notwithstanding the objection, which relieves it from the five-minute rule.

Mr. CONGER. All right, then.

The Secretary read the bill as amended.

Mr. CONGER. The original claim, all told, was \$371,000, as found by the court after litigation, and after the whole matter had been placed in the hands of the court to determine between the United States and this bank, or these claimants, whoever they were, what, if anything, was due from the Government to the bank or to the persons interested in the assets of the bank. The court rendered a judgment of \$371,025. That judgment was rendered October 25, 1881. On that date whatever was due by the decision of the court to these parties was for the first time ascertained and liquidated at \$371,025. The question of interest I have a right to assume was considered, whatever was due either in principal or interest or value—whatever the General Government was under any legal obligation to repay entered into this account, interest, damages, everything. There can be no denial of that on the record.

Mr. HOAR. The Senator will pardon me. Withholding interest in the case was put by the court distinctly on the ground of the peculiar phraseology of the act giving jurisdiction.

Mr. CONGER. Where is the record of that? It does not appear in the report; it does not appear anywhere. There is nothing to show but that the court either in the nature of damages or interest gave all that was demandable; and I may here say it is not the original owners of this property who come here for it now—

Mr. JACKSON. Will the Senator from Michigan yield to me?

Mr. CONGER. Yes, sir; I will yield all around.

Mr. JACKSON. I have the report of the decision of the court before me, and the court only gave judgment for the principal, which was the ascertained, fixed, and definite amount of the bank's assets that had been appropriated. There was no consideration of damages or of interest either, for under the statute the Court of Claims is not allowed to award interest except where the contract expressly stipulates for the payment of interest.

Mr. CONGER. That reads well, and the Senator is generally very accurate. What was the ascertained value of those assets? Their value with interest or their value without interest? Who shall tell us? The court's report does not tell, and the report of the committee does not tell, or whether, if not as interest, yet in the nature of damages for withholding this property the matter was not considered, the committee do not tell us.

Mr. JACKSON. They do tell, and so does the decision of the Court of Claims, that the judgment was for the fixed amount of principal which was claimed, allowing no interest and no damages.

Mr. CONGER. That may be; and if the Senator says so I suppose it is so. Then interest is not included in the judgment. But this was a matter of dispute between this Government and a bank. The agents of the Government proved unfaithful and false, and undertook to rob the Government. The cashier and one of the directors of the bank, having power in this matter to do what they did do, undertook to defraud the Government of the United States, and place themselves in jeopardy of being punished by the securities they gave to the officers of the United States being retained. They gave those securities with the chance of their being retained. There is no doubt about that. The subtreasurer of the United States, when the day of reckoning came, needed money in his hands to settle his accounts as subtreasurer, and he went to the cashier of this bank and he went to the principal managing director of this bank and he asked them to place in his hands money or its equivalent, that he might the next day make a showing to the examiners and satisfy the authorities of the United States that

the subtreasury, with its accounts, with its money, with its payments, with its bills receivable and bills payable, and all its transactions, balanced even, and that he was a faithful servant of the Government in keeping his money and his accounts as they belonged in the subtreasury.

The cashier or teller of this bank and the managing director did this; so the report says; I do not assert it; I think it was the cashier. At any rate the report says that the acting officers of this bank took money and securities out of the bank, and went to the subtreasury and placed them in the hands of the subtreasurer of the United States, and took a receipt from him showing that these officers of the bank knew the fraud; they took a receipt from him that, after the examination on a given day, the first, second, or third after the day of the examination, he was to return them; but, in the mean time, the Government found that there was a connivance between the bank officers and the fraudulent subtreasurer, and it took this property which had been placed there to be the representative of property belonging to the Government, in fraud of the rights of the Government, and used it. How, on that statement, any Court of Claims ever could refund to the bank the money so placed there by the cashier and by the managing director of this bank to defraud the Government, if it was returned, or could open the way for such a payment, I can not see.

On what principle of equity, of justice, of law, of right, any court of the United States could decide against the right of the United States to hold this property handed over by the bank's officers in fraud of the rights of the Government for the express purpose of cheating the United States, expecting to get it back again and leave the subtreasury without assets, which it pretended to have, I can not see. But that is not my business here. It was a very proper question between the bank and the Government in my judgment, and a proper question to submit to the proper court, whether under all the circumstances the bank was not bound by the action of its cashier and its managing director, whether they had not forfeited the property by the attempt to defraud the Government on a temporary placement of it in the hands of an officer who they knew was in default and fraudulent. But by persistent effort, after years, Congress sent the case to the Court of Claims with at least the sanction of such a sending that there was some equity in it, and the Court of Claims decided that the Government should restore the value of the securities, as the Senator from Tennessee says. What was that value? What was it that the Government should restore? What does our own court say ought to be returned to this bank on a settlement and liquidation? It had no right until it had the judgment of that court, and it had no pretense of having a right until the matter was litigated before the court. On the 25th of October, 1881, and we do not know whose delay it was in not bringing the matter sooner to a hearing, the court decided that there was due \$371,025.

Mr. COCKRELL. Will the Senator permit me one suggestion there?

Mr. CONGER. Yes, sir.

Mr. COCKRELL. The bank never sued until within three days of six years after the right of action accrued.

Mr. HOAR. But there was another case which involved it.

Mr. COCKRELL. The right of action accrued on the 27th of February of one year and the suit was brought on the 24th of February of the sixth year thereafter, just three days before the six years expired.

Mr. CONGER. Yes. I thank the Senator for giving me that information.

Mr. JACKSON. The question was before the Department all that while. From the 28th of February, the day after the seizure, the bank was pressing this claim before the Department.

Mr. COCKRELL. The Department had no jurisdiction. I do not understand that it was pressing it. There was another suit pending, and these gentlemen were lying back to see what would be the result of that other suit, and there is another bank now lying back with a claim to come in here for over \$100,000. They did not get their bill into court within the six years, and they want the limitation removed. That has been up and has been reported adversely by one of the committees.

Mr. CONGER. I am very glad that I have done what I thought my duty to be in guarding the Treasury against false and improper claims, let them come from wherever they may. It has been my fortune generally to meet in the House and in the Senate what I thought were improper war claims, or claims for the loss of property during the civil war in the South, which, according to the law of nations and the rules which finally the House and Senate have adopted, were not proper subjects of compensation from the Government. This comes from the State of Massachusetts. It comes here the result of a fraudulent transaction between this bank, through its officers, and a defaulting officer of this Government in charge of the funds of the Government. If it be true, as the Senator from Missouri says, that for six long years the stockholders and managers of this bank went through all the loss caused by the failure of the bank and the destruction of their interests without even asking this Government to refund this money, that is a subject worthy of consideration by Senators in voting upon this question, and, with what I am stating here as to the dates and times and action of the Government and of the court and of these claimants, comes in very well

to show why this claim of \$249,000 of interest should be refused by Congress without a dissenting voice.

As I said, on the 25th of October, 1881, the Court of Claims decided that there was \$371,025 which the Government ought to refund. Four days after that, October 29, 1881, without waiting for any appeal, without waiting to carry the case up to the Supreme Court, without any further litigation, somebody neglected the interests of the United States and let this judgment become final without appeal, contrary, as I think, to law. There is nothing to show but that the officers of the United States ought to and might at any time have appealed from the decision of the Court of Claims to the Supreme Court, but in four days the men claiming the right to the money came to the Treasury and drew out \$260,000. That was pretty swift payment of the judgment. These men were eager enough after they got the judgment to get the money, although they had let the claim lie by for six years without going into court. Then, August 30, 1882, the remaining \$111,025 was paid, making the whole amount of the judgment \$371,025, and then the entire face value, as is claimed here, of these securities was paid back, when in my humble judgment there was no responsibility in fact, and as I believe with my knowledge, whatever it may be, of law, if the case had been taken to the Supreme Court, as it ought to have been by those who defended the interests of the United States, no recovery could have been had. The whole amount was paid, \$260,000 of it in four days after the judgment, and \$111,025 on August 30, 1882, in less than a year, some ten months after the judgment was obtained.

Now, sir, I say without fear of contradiction that if there was any right at all to recover interest it was on the judgment which was obtained and on the balance which was unpaid for those ten months, which amounts to a little over \$40,000 instead of \$249,000.

But, sir, who are these men that come to ask this money back? What is the character of the men who come here? The bank failed, its assets were sold—the securities, the possible indebtedness of this Government—to those who were willing to give a little to speculate upon this matter.

Mr. HOAR. Why does the Senator say that?

Mr. CONGER. Because the report says that the bank failed and its assets were sold. That is why I say it. I can not go beyond the report because I have not had the opportunity. "The creditors bought it in," one Senator from Massachusetts [Mr. DAWES] says. He knows more about it than I do. Now, who bought in this contingent, this erratic, this nebulous, this wandering claim that slept for six years without anybody thinking it was worth bringing forward at all? Who owned it?

Mr. JACKSON. Where does the Senator find the statement in the report that these assets were sold?

Mr. CONGER. I find the report says that the bank failed.

Mr. JACKSON. And the receiver took charge of these assets and applied them to the payment of the debts, so far as they went.

Mr. CONGER. That bears me out in all I want.

Mr. HOAR. The Senator will pardon me. I never heard the suggestion that this claim against the Government had been sold to anybody, and I do not believe there is the slightest foundation for it.

Mr. CONGER. It appears so in the report.

Mr. HOAR. I do not understand it so.

Mr. CONGER. A receiver was appointed and the assets went to pay the debts, and they were sold or turned out, each one to pay equally his debt. These were not turned out; the Government had them; so that whatever they were considered worth was sold.

Mr. HOAR. The Senator will pardon me. I understand that he is stating not that the general assets of this bank were sold, but that this particular claim against the Government, being assets, were sold. That I never heard of, and I do not believe it. It is not implied from anything stated in the report as I understand it, and it can not be, because the statute expressly prohibits the sale of claims against the Government. Any attempt to sell it on the part of the receiver would have been a violation of law and a nullity.

Mr. CONGER. He could sell the right of the bank. Now in whose interest is this claim brought before the Government? Is it the claim of the bank? Does the bank own it? The bank is broken down, dissolved long ago. In whose name is it? Who are to be the recipients of the \$249,000 voted by the Senate to pay the Lord knows whom, and no Senator can say? We know the bank failed; we know a receiver was appointed; we know from the report that the assets went to pay the debts; we know that with a contingency like this the right to prosecute could be sold. It could be sold for one dollar, or it could be sold for one hundred dollars, or a thousand, or a hundred thousand. What would anybody have given for such a thing as that with full knowledge of the fraud and wrong of the leading officers of the bank in a contest against the United States who had secured it by the fraud of the bank and by the fraud of its own officer? There is too little known about this. Did the men who are to receive the money we vote to-day pay a dollar for the claim, or a thousand, or a hundred thousand dollars? Does it belong to the bank? Will it go to the individual stockholders of the bank, and if it does, then in case their creditors were not paid by the assignment and receivership and distribution, we give it to the

stockholders of the bank in fraud of the rights of the creditors; and inasmuch as this report says the stockholders of the bank were ruined by this transaction, we may well believe that whatever right there is in this claim belongs to the creditors of the bank. If the receiver had it in any shape, and sold it, he sold it unquestionably for a song, and it is to speculators perhaps that we are granting away the money of the people of the United States—speculators who bought this claim for a song.

I am not going to dwell upon this longer than to call the attention of Senators to some facts which are plain and indisputable. I have already shown, as I think, that within the utmost limit and extent of the proprieties of paying interest on anything due from the Government it should be on a liquidated account after it is determined and acknowledged by the Government, or acknowledged in obedience to the direction of a court, and the difference is over \$200,000 of money, to go, as I said before, to someone whom no Senator can mention here, some speculator who for his thousand dollars or his hundred dollars got hold of this uncertain, and as I believe improper claim against the Government has, his money having been paid to the receiver and been distributed to the creditors. Or if this is for the stockholders or for the bank by any agreement by which it may have retained it after its failure, then it belongs to the bank's creditors. Let us know who is to be the recipient of the wonderful bounty and generosity of the Senate.

Now, sir, I will not dwell longer on this case. I have performed my duty when I have said enough and shown enough both from the report and from the statement which I have made here to put every Senator on his guard against allowing this bill to pass without further information, and I shall content myself when the proper time comes with asking for the yeas and nays, that we may all have an opportunity of making our record on this bill.

Mr. HOAR. Mr. President, I desire to interpose to the suggestion of the Senator from Michigan my absolute and unqualified denial of the imputation that this bill places in the hands of any speculative purchaser or other person who has acquired it since this claim against the Government. The character of the gentlemen who represented this bank, which is the very highest possible, the fact that no such thing ever has been suggested to me or heard of by any member of the committee or by my colleague, makes me feel entirely warranted in stating so far as I can have knowledge of such a thing, that the suggestion is totally without foundation.

This bank went into the hands of a receiver, and its stockholders, who were I suppose like stockholders of other banks, men of capital and trustees of widows and orphans and various sorts of people, had to pay in out of their funds a sum equal to the amount of the capital stock to make good the liabilities of the bank, which, instead of being a prosperous, thriving institution, was compelled to fail by reason of this transaction, and when the bill is passed the money will go to the receiver. If there are any creditors they will be paid. If the creditors are paid and there is anything left, it will go of course to the funds of the stockholders to reimburse what they paid in.

It is true, as the Senator from Missouri suggests, that this bank waited until within three days of the end of six years before it sued the United States; but there was another test case pending, and I do not understand that public policy requires that if there are a dozen persons whose claims depend on the same state of things they shall all proceed to incur the expense of a suit at once if they bring their suits in time to save the statute of limitations, and one creditor brings his suit promptly. An appeal was taken by the Attorney-General. He examined the matter, and within the six months withdrew his appeal, because he found the case could not be distinguished in principle from another case decided by the Supreme Court. The Court of Claims had no authority to allow interest; but in a like case, the case of Francis Vigo, cited at length by the committee in their report, where Congress referred a claim to the Court of Claims with authority to give judgment according to the policy of the United States in like cases, the Supreme Court of the United States on appeal from the Court of Claims, on full examination of the statutes, declared that it is the policy of the United States to pay interest in such cases, and over fifty statutes are cited by the committee establishing that proposition.

Now, I should like to ask whether there is a Senator in this body who, if one of his domestic servants had conspired with one of mine to get some property of mine into his possession, and apparently his, would not restore that property? He would not proceed to talk about the fact that my servant was a party to the fraud. Neither of these persons was agent of the United States or of the principal for the purpose of the fraudulent transaction, and no change of property took place, nothing vested in the United States by the transaction.

That being the case, the demand was made on the United States for this property in the possession of its Treasury, and it refused to give it up. It is not the case of an unliquidated claim, which the United States is presumed always to be ready to pay. It is the case of an express refusal to pay on demand and a claim of right to the property, and thereupon the ordinary rule of law applies; and my friend from Michigan, for whose integrity I have so much respect, would put his right hand into a brazier of burning coal and have it burned to the

stump before he would act in his own case, if he were dealing with me or any other person, on the principles upon which he now asks the United States to act.

Mr. HARRISON. I wish to ask the Senator from Tennessee who reported the bill of what items in a general way the claim was made up, aside from the \$46,000 of Government securities. How much was in cash?

Mr. JACKSON. They were the checks of the cashier for actual moneys that were collected and actual moneys deposited.

Mr. HARRISON. So that the balance of the claim besides the \$46,000 was money?

Mr. JACKSON. Actual money; yes, sir. Forty-five thousand dollars or \$46,000 was in Government interest-bearing securities and the balance in actual money; so that the claim was really ascertained, fixed, and determined, and was not unliquidated in its character.

Mr. HARRISON. I asked the question because as to a part of this claim it seems to me to be perfectly clear. If the Government by a method which was held by the court to be ineffectual to transfer the property of this bank secured \$46,000 of its own securities that were interest-bearing and held them and in effect got the interest upon them because it did not pay the interest, I take it that in that case there can be no question in the world that in equity and good conscience, and as a matter of law between individuals, the Newton bank would be entitled to the interest received or withheld by the United States on that sum. But it seems to me as to the money the question might be quite different.

The rule as between individuals and one that is supposed to rest upon a basis of sound reason and justice is that one individual shall render interest to another for the use of money, first where he stipulates to do so, and secondly where in the judgment of the court trying the case he has unreasonably withheld money from another person. That is the rule applied in our courts to open accounts between individuals. There may be a demand, and the question is whether it has been unreasonably withheld. That is the question as between individuals. If it has been, the courts then award interest in the way of damages upon the debt.

Now, what are the facts in this case? The cashier and the managing director of this bank entered into a fraudulent arrangement with the officer of the United States in charge of its funds in the city of Boston, by which they put into his hands certain moneys. Suppose that he cashed these checks and that the proceeds are in the Treasury as actual money. When the Government comes to account with its officers he produces that as United States funds in his custody, and *pro tanto* settles his accounts with the Government and passes the examination by presenting them. The presence of that money there did involve the fraud and the fault of the men who were held out to the world as authorized to represent the Newton bank. If the United States had given a consideration for that money, undoubtedly the courts would have held that the acts of these two officers, though in fraud of the bank, were binding upon the bank, on the principle that where one of two innocent persons must suffer it must be the person least at fault.

Mr. JACKSON. Will the Senator allow me in that connection to call his attention to what the court has stated on that direct point?

Mr. HARRISON. Yes, sir.

Mr. JACKSON. I read from the opinion of the court.

Mr. HARRISON. The Court of Claims?

Mr. JACKSON. The Court of Claims, as approved by the Supreme Court in the case of *Newton Bank vs. United States*:

Upon the case as thus outlined, the simple question of law is whether the claimant's property in the assets was, by the fraudulent acts of its cashier and one of its directors, divested out of it and vested in the defendants. There is not the least ground for answering these points in the affirmative, unless the claimant was privy to those transactions and allowed its assets to be so used. But there is nothing in the case justifying a remote supposition that any officer, director, or stockholder of the Newton Bank, except Dyer and Carter, the conspirators, had the least knowledge or the faintest suspicion of, or the least cause to suspect, any part of the villainous scheme. It was simply a case of a bank being robbed and of its stolen assets being put into the hands of the cashier of the subtreasury for a purpose which, by no possible view, could, in law, be held to effect a transfer of the bank's right of property in them, either to him or to the United States.

One word more:

Such being the case, "it ought," in the language of the Supreme Court of the United States, "to require neither argument nor authority to support the proposition, that where the money or property of an innocent person has gone into the coffers of the nation by means of a fraud to which its agent was a party, such money or property can not be held by the United States against the claim of the wronged or injured party. The agent was agent for no such purpose. His doings were vitiated by the underlying dishonesty, and could confer no rights upon his principal." (*United States vs. State Bank, ut supra.*)

Mr. HARRISON. Certainly. What the Senator has read is exactly in line with what I have said. The United States did not put itself in the position of an innocent party who had parted with something upon the faith of the acts of these men who were held out to have authority to represent the bank, and therefore the bank could recover the securities; but this is the situation: The United States finds in its vaults money that has been placed there, as we learn now, by the fraudulent connivance of officers of this bank with its own officers. Now, the Newton bank comes and asks that money.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The hour

of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

Mr. HOAR. I ask unanimous consent that the Senator from Indiana may finish his remarks, and then if there can be a vote that we may have it. If there can be no vote at that time and anybody else wishes to speak, I will not press the bill further now.

Mr. HARRISON. I am not asking the Senator from Illinois to give way to me. I will not do that myself.

The PRESIDING OFFICER. The Senator from Massachusetts asks the unanimous consent of the Senate that the unfinished business be informally laid aside in order that the Senate may proceed with the consideration of the bill from which it has just passed. Is there objection?

Mr. CULLOM. I have no objection to the Senator from Indiana finishing his remarks, and if then the Senate will vote upon the bill I shall waive, as far as I am concerned, the consideration of the special order until that is over; but I must insist that the Senate give attention to the interstate-commerce bill after the Senator from Indiana has finished his remarks if any body else wants to speak on the bill of the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts that the unfinished business be informally laid aside in order that the Senator from Indiana may conclude his remarks and that the bill may be finally disposed of?

Mr. CULLOM. I understand that other Senators desire to speak. If so, I shall have to object.

The PRESIDING OFFICER. There is objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 491) for the relief of John W. Franklin, executor of the last will of John Armfield, deceased.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 754) for the relief of Nathan H. Dunphe, of Bridgewater, in the State of Massachusetts; and

A bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers.

ENROLLED BILLS SIGNED.

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

A bill (S. 737) to remove the political disabilities of J. R. Waddy, of Virginia; and

A bill (H. R. 4539) to issue American papers to the lighter or barge Pirate, now at New York.

ADJOURNMENT TO MONDAY.

On motion of Mr. SHERMAN, it was

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

INTERSTATE COMMERCE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is on the amendment of the Senator from Illinois [Mr. CULLOM].

Mr. GARLAND. Let the amendment be read.

The PRESIDING OFFICER. The amendment will be read.

Mr. CULLOM. I think the amendment before the Senate is that offered by the Senator from Iowa [Mr. WILSON].

The PRESIDING OFFICER. The Chair was informed that the pending question was upon the amendment of the Senator from Illinois, but he has subsequently been informed by the Secretary that it is upon the amendment of the Senator from Iowa [Mr. WILSON] to the amendment of the Senator from Illinois [Mr. CULLOM]. The amendment to the amendment will be read.

The CHIEF CLERK. It is proposed to amend the amendment so that it will read:

And said commission shall precede its first report with an investigation of the subject of interstate commerce, which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed, for the prohibition of discriminations of any kind whatever, either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end that said commerce among the States may avail itself of the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

Mr. GARLAND. I should like to have read now by title the bill that has just come from the House of Representatives.

Mr. HARRISON. I was going to inquire whether this stands as an amendment by the Senator from Iowa to the amendment offered by the Senator from Illinois.

The PRESIDING OFFICER. That is the question.

Mr. HARRISON. I thought the Senator from Illinois withdrew the amendment he had offered.

Mr. WILSON. The Senator from Illinois withdrew his amendment to his amendment, and then I offered this as an amendment in the nature of a substitute for the amendment of the Senator from Illinois.

Mr. CULLOM. Substantially the only amendment which is pending is that just read, offered by the Senator from Iowa [Mr. WILSON]. The amendment which I had offered was the same thing with a little change.

Mr. WILSON. The difference between this and the amendment originally offered by me, and subsequently in a modified form offered by the Senator from Illinois, was made in order to meet the objection of the Senator from Indiana, [Mr. HARRISON], by eliminating all that part of it which requires the reporting of a bill, and simply directing the investigation to be made on the several lines provided for in the amendment.

Mr. GARLAND. Now, Mr. President, I should like to have the bill reported by title that has come from the House to-day.

The PRESIDING OFFICER. If there be no objection the Chair now lays before the Senate a bill from the House of Representatives.

The bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers was read the first time by its title.

Mr. CULLOM. I move that that bill be referred to the Committee on Railroads.

Mr. GARLAND. I want to make a motion to commit the whole subject with the bill. That is the reason I had the title read, wishing to make a few remarks on that motion.

Mr. McMILLAN. With regard to the bill now proposed to be referred to the Committee on Railroads I desire to say, representing the Committee on Commerce, that this subject is properly within the jurisdiction of that committee, but as the bill already before the Senate was introduced by the Senator from Illinois and referred to the Committee on Railroads, of which he is a member, I do not feel called upon at this time to insist upon a reference of the House bill to the Committee on Commerce, the matter having been reported from the Committee on Railroads in the shape of the bill already under consideration. For that reason I shall not insist upon any objection to the reference of the House bill to the Committee on Railroads, though the matter is properly within the jurisdiction of the Committee on Commerce.

Mr. CULLOM. I desire simply to say that when I introduced the bill, a part of which came back as a report from the Committee on Railroads, and which was, upon my motion, referred to the Committee on Railroads, I acted at that time without really knowing that the subject had heretofore been considered by the Committee on Commerce. Its reference to the Committee on Railroads was not for the purpose of in any way slighting the Committee on Commerce.

Mr. McMILLAN. I so understood.

The PRESIDING OFFICER. Does the Chair understand the Senator from Arkansas as submitting a motion to refer the pending bill with the House bill?

Mr. GARLAND. The pending bill and all the amendments, with the House bill, to the Committee on Railroads.

The PRESIDING OFFICER. Does the Senator from Arkansas desire that the House bill should be read the second time and referred, or that it remain on its first reading?

Mr. GARLAND. Remain on its first reading for the present.

Mr. President, the Senator from Illinois [Mr. CULLOM], who has charge of the Senate bill, has labored with very commendable zeal in this matter, and has urged very properly the consideration of the subject from time to time before the Senate. The other day in answer to the remarks submitted by the Senator from Delaware [Mr. BAYARD] he made some complaints as to the delay that would occur in regard to the bill if a postponement of it was had at this time. The proposition the Senator from Delaware then had in his mind in reference to a bill which he mentioned is now made practical by the appearance of that bill from the House, in regard to which we had seen and heard a good deal through the papers and other sources of information.

Now, I am free to state to the Senator from Illinois that he is to be congratulated on making considerably more progress in this matter than is generally made before the Senate in matters of this importance. He reported this bill in April last, and at this time he is coming well-nigh to a final hearing of it. That, I say, is making much more progress than is generally made in measures of such importance before the Senate.

The first measure that ever I introduced into the Senate about eight years ago was a simple bill to revive an appropriation to pay some postmaster in the Southern country, and I have been urging it every session during the intervening time, but it is no nearer a final conclusion now than it was then. There was but one question involved in it and a very simple question, and I fear it will take twice eight years accord-

ing to that progress, if not three times eight, to get to the conclusion of it.

This measure of the Senator from Illinois involves half a dozen if not a dozen very intricate, very close, and very important questions. I do not know within my knowledge and within my reading a question which has been before the Senate in my time that is exactly as intricate as this is. In connection with the bill there are various propositions before the Senate, not merely propositions differing as to details or as to mere matters of arrangement, but propositions differing among themselves fundamentally and organically. Now for the first time we have all these propositions brought before us in one form. Every gentleman who has studied the question has had an opportunity to be heard and present by speech or by amendment his views upon it. This is a question that demands, I think above all others, that we shall go slowly indeed in solving it.

If the Senator from Illinois shall see the end of his bill at this session he will have made the most rapid progress of any gentleman who has been in the Senate, charged with any important measure, since I have been a member of it. Now, I propose to detain the Senate for a short time by going through some of the features of this bill and indicating what I think to be radical defects in it, defects that are to my mind perfectly obvious, but if Senators differ with me in that regard and have doubts as to it, the very doubts themselves should command a committal of this bill with the House bill, that the whole subject may be before the proper committee of the Senate so that they may report it back to the Senate after proper advice. I may say here, what escaped me a moment since, that the distinguished gentleman who is the father of the House bill which we received a few minutes ago has been working at it just eight years, I think, in the House; and now after these long years of toil he is congratulated upon a successful issue of the matter. So the Senator from Illinois has no just ground to complain of any particular delay, for there has been expedition plenty and I think a little too much when we come to consider the frame of the bill we are asked to indorse.

The first section of the bill speaks of the proposed commission, provides for its organization, and then the next section proceeds in this language:

SEC. 2. That the commission hereby created shall have supervision over all matters pertaining to the regulation of commerce among the several States.

The word "supervision" there is the strong word of the phrase, which carries with it the power of these commissioners. Supervision for what? Supervision to make, to change, or to alter the regulations of commerce; or is it a supervision merely to put them in a particular order and arrange them in a certain way to be presented to the community? The first of these propositions is the true one. They are to have "supervision," that is, the entire control of, not merely the overlooking of these regulations, but power to see that they are in proper shape and properly passed out, properly spelled, and properly written. They are to have full supervision of the regulations of commerce among the States.

Now, what do we understand by regulating commerce, according to the constitutional provision? It means no more nor less than the power to prescribe the rules by which commerce is governed. The word "regulation" there means the laws of commerce so far as Congress can prescribe them. This is a legislative power delegated by the Constitution to Congress, and it is one of those powers which are national in their character, and the want of which in the old Confederation was one of the reasons that necessitated the enlarging of the powers of the Union and making it in respect to this one feature a nation. But when Congress, in the exercise of a legislative power delegated to it by the Constitution, may do a thing, where do we find the power in Congress to delegate this authority delegated to it to a mere commission of seven or five or three, as the case may be? This is not like the case of heads of Departments or Secretaries, who are sometimes empowered by Congress with authority to make rules and regulations to carry into effect certain laws, for there is no law prescribed in this bill, as we shall see as we go on; and even in the laws which have heretofore delegated the power I speak of to commissioners or to Secretaries or heads of Departments, they are generally circumscribed by the power of revision in the President or some higher authority.

If the Senate get possession of the idea I am working at, it is that the Congress of the United States in this bill, in the very second section of it, is divesting itself of its legislative power as to regulating commerce among the States and putting it in the hands of a commission. It is a fundamental rule, outside of any constitutional question, that a power delegated can not be subdelegated; and it is an unheard-of thing that a legislative power can be transferred from the legislative body to any subordinate power. That has been tested repeatedly, and as many times in your State as any other in the Union [Mr. HARRISON in the chair], on propositions to submit laws to the people to be voted upon before they become operative. Senators may examine this section and see if I am correct that the commission provided in this bill has the supervision of the regulation of commerce. We get this power, so far as Congress is concerned, entirely from the Constitution, to regulate commerce among the States; that is, in other words, translated properly, to make rules to govern commerce among the States. But here we say

we will not do this, but we will transfer it to a commission to make these laws, these regulations, and supervise them. That is the starting point of the bill. It takes a very large space. That is the legislative feature of the bill—delegating the regulation of commerce to the commission.

Now take section 3:

That if any transportation company engaged in interstate commerce shall collect, demand, or receive, in the transaction of the business of interstate commerce, more than a reasonable rate of compensation for the transportation of freight of any description, or for the use or transportation of any railroad-car upon its railroad, or on any of the branches thereof, or upon any railroad it has the right, license, or permission to use, operate, or control, said transportation company shall be deemed guilty of extortion.

And the matter then is to be passed upon by the commission, and the commission may make proper inquiry. We have gone from the legislative feature of this bill, and we now come to a court. We make the commission a court to try the question of extortion and to assess damages for it. The assessment of damages is essentially, in any way you consider it, a judicial proceeding. It is the application of law to a given state of facts, and that is what is called in law a judgment. Just now we had a case, the consideration of which has just passed from us, which is in the hands of the Senator from Tennessee [Mr. JACKSON], as to the allowance of interest upon a given sum of money that a bank has lost. Interest is damages in one sense of the word. The assessment of damages is a question of law and of facts. Here is an assessment of damages provided for in the fourth section of this bill, following section 3, and this commission, now grown from a legislative body into a judicial tribunal, is to exercise the most important judicial function in disposing of the rights of transportation companies.

Next comes section 5:

That whenever complaint is made to the commission, in such manner as it may prescribe, charging any transportation company engaged in interstate commerce with extortion or unjust discrimination in the transaction of such business, a statement of the charges thus made shall be forwarded to the transportation company, which shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable given time.

Here you come to a hearing upon the case made before this court, before these commissioners. Then they are to proceed to assess the damages under section 6 of this bill. There is no avoiding the conclusion, Mr. President, that this erects a court in the country to try these most important questions, these most complicated questions, these questions in which every State in this Union and every Territory also has an interest. There are no more important questions and no more vexing questions, as I shall show after awhile, that have ever been before the courts of this country, from the Supreme Court to the lowest in the land, than the very questions this commission are empowered to try here. And they are to try these questions in somewhat of a summary proceeding, without jury, without appeal. Their assessment of damages is to stand; there is no appeal from it.

Why is not a body with such functions called a court? The name is nothing. It is clothed with all the essential features as well as all the paraphernalia of a court. You have to make your complaint; the party is to answer, and then he is to proceed to trial. That is a court; you may call it by any name you please. The power under the Constitution to make courts in this country is of course very large; it is almost unlimited to make courts for national purposes; but when you come, following this line of argument, to see in section 9 the winding up of the court feature of this bill there is something deserving the particular attention of the Senate:

SEC. 9. That in making any investigation required by this act the commission shall have power to summon and require the attendance of witnesses, to administer oaths, and to require the production of all books, papers, contracts, and documents, or properly certified abstracts thereof, relating to the matter under investigation and necessary for the information of the commission in connection therewith.

How has it been in the acts heretofore passed? Take the practice act, section 881 of the Revised Statutes, where provision is made for compelling the attendance of witnesses; no such power is given to a commissioner of the United States as is given here, or to any other officer, except a judge of the United States, who holds his position for life. That provision in the practice act requires the commissioner to certify the fact of the remaining away of a witness to the judges of the court, and they make the order issuing an attachment for him if necessary. Take the seventy-eighth rule of equity practice established by the Supreme Court of the United States. In the taking of depositions, where a witness is in contempt and fails to attend according to the subpoena, that fact must be certified to the judge of the court before he is compelled to attend. Take the institutions of inquiries in reference to revenue matters that are committed to subordinate officers over the country. Where they have power to administer oaths and examine witnesses, the power is expressly withheld from them to compel the production of books and papers and compel the attendance of witnesses by process such as is contemplated by this bill. It is true that in some of these statutes if the witness does not attend it is said he shall be liable to a penalty; but that is not the case here. The bill gives this commission the compulsory power at once to compel the production of books and papers and the attendance of parties, and subjects the companies to this investigation and witnesses to this compulsory process before this commission that is only to exist for a limited time.

Never before in the case of these mere outside commissions has the power to compel the attendance of witnesses been given. Congress sometimes seeks to compel such attendance through its own committees; but the Supreme Court in the recent *Kilbourn* case sheared this power down very materially.

Sir, this is a step which I do not think we are warranted under the Constitution in taking, and there has never been before anything of the sort attempted in this country, even in providing rules and regulations for the government of the Territories, over which it is conceded, as a general proposition, that Congress has unlimited legislative power. I ask Senators to pause and consider these propositions before they incorporate into our system this court to sit over these important matters with this unlimited jurisdiction, with no power of review, with the authority to compel a witness by attachment or other process to attend and subject himself to examination, as well as to require the production of the books and papers of the companies.

Mr. BAYARD. Will the Senator from Arkansas yield to me a moment?

Mr. GARLAND. Yes, sir.

Mr. BAYARD. I was not in when the Senator began his remarks. Has he considered the effect of section 9, which goes far beyond the books and papers?

Mr. GARLAND. I am on that now.

Mr. BAYARD. That compels any man's papers, whether he belongs to a transportation company or not, to be brought into court and subjected to examination.

Mr. GARLAND. Precisely. That is the part of the section I was considering. As the Senator from Delaware has suggested, it not only takes the party himself, but it gives the commission power to throw its lasso in every direction and to roam all over the country and bring in every person, every other man, so to speak, into this investigation. This is a power which I contend, under the Constitution, we can not put in the hands of this commission. We can not do it, though we have unlimited control over interstate commerce under the Constitution. When we understand what interstate commerce is, when we have prescribed what it is, yet we can not do this. There are other provisions of the Constitution which stand as high as that and are of as much importance, and as much sacredness, and as much dignity, that forbid the clothing of this commission with the power that is here proposed to be given.

Are not the courts of the country as at present organized competent to deal with these questions? It seems to me they are; but if they are not, and if it is proper, enlarge their jurisdiction as to this subject; but do not set up in the country an independent tribunal, with these vast powers, with no restraint upon them except their "discretion," as it is frequently mentioned in the bill.

To meet the case before us, what should be done? If I read this power of the Constitution aright, Congress should prescribe its regulations itself. It should not say if a company, in the judgment of the commission, charges extraordinary rates or practices extortion the commission shall prescribe regulations. That should not be left to any commission or person in the world to determine; but Congress should prescribe the rule itself, and that is what the Constitution means; that is one of the regulations contemplated by the Constitution.

One of the amendments pending to the bill, if I recollect aright—I do not know which it is in the multitude of them—goes so far as to provide that the commission shall prepare and report a code, an interstate-commerce code, you may call it. Now, where do we get the authority to delegate that power to the commission to make us a code of laws on the subject of interstate commerce? Congress itself may make a code, and Congress ought to make it, and after the code is made a commission might be organized by Congress, if it was necessary, to properly enforce and carry out the rules and regulations of the code. Our Revised Statutes were made by a committee of revision, but nobody ever contended that the action of that committee of revision was law until Congress adopted it.

We might organize a commission to investigate and report to us what, in their judgment, it was deemed best to do, and if we saw proper to adopt what it proposed and put it in the form of an enactment then it would be law, but nothing short of that could make it law. We had once in Arkansas a very interesting question of this character, running parallel with it. The constitution provided for a commission every few years to revise and digest the laws. The commissioners revised and digested them, and while they were at it they made twenty-five or thirty more laws. The first time the supreme court got hold of it they said, "This is no law at all, this extra work. You were authorized to revise and digest the statutes, but in addition to that you have gone to work and made laws. These we will expunge; we will blot these out of your report; and having done that, we will look at your digest of the laws that are existing and see what we will do with that." So the power that is here attempted to be conferred upon a commission simply provides that commission shall do what the Constitution says Congress has the power to do and which Congress can not delegate, that is, the power to make an interstate-commerce code. A commission to look into this immense business, collect information, and report facts and figures to Congress for legislation under its power to regulate commerce, is one

thing and a very legitimate thing; but it is very essentially different from the power here given.

The bill proceeds in section 13 to determine what is meant by a transportation company engaged in interstate commerce. There the committee reporting the bill have struck the most dangerous precedent in the Government. There the committee in reporting the bill have struck, I say, the most important and the most intricate question that there is in the Government. The line of demarkation there is more difficult to run than anywhere else between the powers of the General Government and those of the States respectively; and we undertake to say here what that line is as a guide for the commission. I venture the assertion that Congress can not define what that is. Why? You can never define it except in the given case. You may take every case that has been reported in the Supreme Court of the United States, from *Ogden vs. Gibbons* down to the present day, and you will find no question upon which the judges differ so much as the one question, what is State commerce properly speaking, and what is interstate commerce as distinguished from it.

I have before me, in the twenty-first volume of Wallace's reports, the Maryland tax case, where Judge Bradley delivered the opinion of the court, in which there was a dissenting opinion upon this very question as to what was interstate commerce and what was State commerce properly speaking. Judge Bradley in language almost deplored the difficulty that the court had encountered in applying this doctrine and making this distinction. He finally decided, however, that it was a question entirely for the State, in which respect Judge Miller and others differed from him. Then Judge Bradley makes a dissertation upon the very difficulty upon which I am now dwelling, the fixing of landmarks, the proper plane to be seen and to be observed in regard to this distinction.

Here you undertake to do it in this bill. It is a question for the courts to pass upon, and no higher, no more difficult question comes before the courts than this. If I read the spirit of our institutions correctly, in a clash between the States and the Government of the United States the greatest danger under the Constitution arises upon this very question. The Senator from Illinois need not be in too big a hurry to encounter the question in all its length and breadth and call for a speedy settlement of it. He has made proper and legitimate and commendable expedition in this matter.

In making these objections to the bill of the Senator from Illinois I should in good faith attempt to give him, as we say in the courts, a "better writ." I do not like his, and now I will try to give him a better one in general. Looking over the amendments that have been offered here, there are some ten or twelve of them, the amendment of the Senator from Mississippi [Mr. GEORGE], according to my judgment, as well as the amendment of the Senator from Oregon [Mr. SLATER], looks in the proper direction; and from the cursory examination that I have been able to give the House bill that is now somewhat before the Senate for consideration, I am disposed to think that that is the best bill of all, because it undertakes to define exactly what we want done, and does not leave it for subordinate officers or agents to do the work.

It keeps to that extent within the Constitution. It does not attempt to delegate our legislative power to some one else. It does not attempt to delegate the power of making a code or making a law for interstate commerce to any one else; but we, the Congress, make it or attempt to make it in that bill. It leaves the question to the courts as the courts now are organized to enforce the law, and does not erect a court without any responsibility, a court without any appeal, a court without any review or any restraint to revise it. It leaves the courts to settle it as they are now organized, with the right of appeal according to the Constitution and the laws of the country. I think that is the better bill between the two, and I think, upon the cursory examination I have been able to give it, it is the best bill that has been offered upon the subject.

While I say the House bill appears to be more in the direction of what I think is needed, yet I do not commit myself to it, as I have not had an opportunity to examine it closely; and as this whole matter is one of peculiar difficulty to deal with.

With these general remarks, I ask the Senator from Illinois in good faith, because I want to accomplish what I think he is seeking, to let this matter go back to the committee, the House bill and all, with the benefit of the discussion that we have had upon it and the suggestions thrown out by the different amendments, and there let them prepare a bill that they in their judgment think will meet the exigency of the time. The House bill would necessarily go to the committee; but if the consideration of the Senate bill is still held up, unless I find some objectionable features in the House bill I shall offer it in the end, if the consideration of the Senate bill is pressed, as a substitute for the entire business. But let the House bill be printed and referred to the committee, let the whole subject be committed to the committee, and with the importance of this question, with the demand for making some changes in this great and important question, with the demand for legislation upon the subject, I, for one, will co-operate most heartily with the Senator from Illinois in getting final action at this session.

The Senator from Texas [Mr. MAXEY] suggests that there is no ne-

cessity for this matter to lose its hold upon the Senate, and I believe I speak for all Senators around me when I say that they will cheerfully aid in bringing the measure to a final close at this session. I can not give my sanction to this bill, or anything like it, for the reasons I have stated. I hope the whole matter will be committed to the committee, and let them, with all these details and amendments before them, frame a measure that they think will meet the exigency.

I submit the motion to refer the House bill, with the pending Senate bill and all the amendments, to the Committee on Railroads.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Chair will state to the Senator from Arkansas that a motion to refer the House bill until its second reading is not in order. If there be no objection, the House bill will be read by its title, when it will be considered as read the second time. Then a motion to refer will be in order.

The CHIEF CLERK. "A bill (H. R. 5461) to regulate interstate commerce and to prohibit unjust discriminations by common carriers."

The PRESIDING OFFICER. If there be no objection this will be considered the second reading of the House bill. The Chair hears none, and it is so ordered.

Mr. CULLOM. I do not intend to take the time of the Senate more than a moment. I am certainly obliged to the honorable Senator from Arkansas for the compliment of having manifested some zeal in the effort that I have made in trying to get a bill on this subject passed by the Senate; but I was forced almost to believe that his remark that there had been very rapid progress made by the Senate upon the question was really meant as a joke. I have not been able to see that the Senate has made much progress. I have been almost induced to believe that the policy of the Senate was to get bills in here upon the Calendar from some committee and there let them sleep and die. I have supposed that the purpose of the Congress of the United States was to pass bills upon important questions; and while I am not disposed to press a bill beyond what seems to be propriety in the case or more rapidly than is consistent with due consideration, it does seem to me that if we are going to pass a bill upon this important question our duty is to consider it in the Senate, and to consider it as constantly as may be consistent with the other work of the Senate until we reach a vote and put it upon its passage.

While it may be proper to refer the bill to the committee before we take a final vote upon it, my desire has been to keep the bill before the Senate for consideration and discussion and amendment until we could learn what the views of Senators were upon it; so that if it finally was referred to the committee the committee would have some idea of the views of the Senate to guide them in the consideration of it in the committee. As it stands to-day we have merely, and but merely, entered upon the consideration of it by way of amendments. We have just come to that period of time. While I should be glad, indeed, to accommodate myself to the views of the distinguished Senator from Arkansas—because I regard him as one of the most eminent lawyers in this body or in the country—I would prefer that the bill should remain before the Senate for consideration and discussion and amendment until we can arrive at some understanding of what the views of the Senate may be upon these important and controverted points.

I have no personal ambition to have the bill that I have had the honor to bring to the Senate passed if it is not the best one. On the contrary, I am exceedingly anxious that this whole subject shall be discussed, shall be considered deliberately, and then that the very best bill in the interest of the public shall be passed by the Congress of the United States at the end. What I want to do is to get some bill passed. This subject, as was said a few days ago, has been considered now for ten years, mainly in the House of Representatives, but somewhat in the Senate of the United States. The people of this country have come to believe that it is a mere football for the Congress of the United States to kick at whenever they have an opportunity and nothing else to do. What I want to do is to convince the people that we are trying to do something in their interest, and that we are able to do it, and that we shall be able to pass some bill, so that if there is any need of giving them relief they shall have it.

I shall not stop at this moment to discuss the various constitutional questions that the honorable Senator has suggested, but I should like that both bills, if you please, shall remain where they are, and that we shall go forward in the discussion and amendment of the bill now before the Senate under consideration until we arrive at something near what we understand to be the best bill that can be passed. Then, if the bill seems to be in such condition that it would require a reference to the committee to be looked at more carefully, to consider the effect of one amendment upon another, so far as I am concerned if an understanding can be had by which we shall get the bill back again and finally reach a vote and pass it so that the two Houses can come together in favor of this important measure, I would not stand in the way. But for the present I must resist the motion of the Senator from Arkansas to refer the whole subject to the Committee on Railroads.

The PRESIDING OFFICER. The question is, Will the Senate recommit the bill?

Mr. BAYARD. Has the House bill been referred?

The PRESIDING OFFICER. The House bill has been read a second time and is now on the Secretary's table not referred.

Mr. BAYARD. Under the rule, ought it not to be referred to the appropriate committee now?

The PRESIDING OFFICER. A motion to refer it to the appropriate committee is in order. The Senator from Arkansas, however, has given a notice in regard to its disposition.

Mr. GARLAND. I asked that the House bill might lie on the table for the present, because if the motion to recommit the Senate bill is carried, then I desire the House bill to go too; but if the Senate bill is not recommitted, I wish to move the Senate to proceed to the consideration of the House bill, or I shall offer the House bill as a substitute for the whole matter. That is the position it is in.

Mr. BAYARD. The House bill is not yet printed. I do not know, nor do perhaps the members of the House know, precisely what bill they have passed. Certainly no member of the Senate does. It is in manuscript yet. It was variously amended in the House in the course of debate.

The proposition of the Senator from Arkansas is that the Senate bill shall be recommitted, and at the same time the House bill goes in the ordinary course of business to the same committee.

I submit to my friend from Illinois that it would rather facilitate the object he has in view to allow both bills (that is to say, the propositions heretofore made by the Senate, which we have now under consideration, and the result of the discussions in the House which has now come to us) to go to the committee of which he is a member, and from which we may therefore expect a very early report upon the subject.

My friend from Illinois is a practical man, eminently so, and his desire in this case is to have some practical result of the discussions in the Senate and the House. I submit to him that while it is perfectly proper and eminently wise that there shall be full discussion upon a subject of this kind, and that discussion must precede the vote of the Senate upon it, yet in order to discuss wisely there must be some definite proposition before the Senate. The Senate may not agree with the views of the House, but may take, as they have heretofore taken, a measure which I do not understand to be in accord with the suggestions of the House. I do not know fully what the measure of the House is, but I have the impression that it differs, and differs most importantly, differs upon principle as well as upon detail, from the measures and the propositions of the Senate. It is our first duty to come, if we can, into accord with the propositions of the House; and if we do so the propositions of the bill will take the form of law.

Mr. CULLOM. If the Senator from Delaware will allow me, I desire to say that I do not disagree with the honorable Senator. The situation of the subject is this: The Senate is now considering the Senate bill. Under the rules of the Senate, I understand it is the right of the Senate to proceed with the consideration of the Senate bill, the bill before the Senate, and perfect the text of that bill before any substitute can be offered. As a matter of fact the honorable Senator from Oregon has already offered substantially the House bill; it may be somewhat different in some particulars; but before the consideration and amendment of the Senate bill proper can be concluded the House bill which but a few moments ago came into the Senate will have been printed, and there will be an opportunity to offer it as a substitute for the Senate bill under consideration, after the Senate bill may have been discussed and considered and amended as the Senate sees proper to amend it.

So the purpose that the Senator from Delaware is seeking to accomplish and the purpose that I desire to accomplish are substantially the same; and I think if we go forward with the consideration of the Senate bill now and amend it as the Senate sees proper, the House bill will be in such a condition that Senators can see it and it may be offered as a substitute for the Senate bill, or the whole subject may be referred to the committee if it is the wish of the Senate to do so.

Mr. JONES, of Florida. I desire to ask the honorable Senator before he sits down whether under the definition given in the bill of transportation companies it is intended to include vessels engaged in the coasting trade.

Mr. CULLOM. Between the States?

Mr. JONES, of Florida. Yes; the coasting-trade between the States. I ask if that is a subject of legitimate jurisdiction for the Committee on Railroads and whether the Committee on Commerce might not more properly consider it?

Mr. CULLOM. That question was discussed only a few moments ago. The honorable chairman of the Committee on Commerce has stated the reason why he did not seek to have the bill referred to that committee.

Mr. JONES, of Florida. The question of regulating the coasting trade is rather a complicated one and is entirely different from the railroad system.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arkansas [Mr. GARLAND] to recommit the bill, with all pending amendments and amendments that have been received and printed.

Mr. INGALLS. Mr. President, I do not suppose that I contribute anything to the general stock of information on this subject when I say that if we are to have any bill regulating interstate commerce by this Congress it must be by action upon the bill just sent over from the House of Representatives. We may either adopt that with amend-

ments, or we may strike out all of it except the title and insert whatever the Senate pleases by way of amendment; but in any event we shall make no step of substantial progress by continuing further the consideration of the Senate bill. It is true that something might be accomplished by debate in reaching a concert of minds with regard to the subject-matter of the bill; but in a parliamentary sense, the bill of the House having reached us, there is no further step in advance that can be taken except by consideration of the House bill.

I have no desire to antagonize the wishes of the Senator from Illinois who has this measure in charge; I shall consider myself as a volunteer to follow his direction; but it appears to me, looking at it as a proposition of parliamentary procedure, and also from the standpoint of one sincerely desirous of having something done by the present Congress, that the wiser course would be to have the bill of the House referred promptly to the Committee on Railroads, if that is the committee from which the measure proceeds. Let it be accompanied also by the bill of the Senate with all of the amendments that have been made and offered thereto. Then let a meeting of the committee be called immediately to consider these propositions, to-morrow morning if need be. I assume that the importance of this subject would justify such action. If a majority of the committee see fit to report back the House bill with every word stricken out except the title and propose as an amendment the bill that has already been presented to us by the committee of the Senate, well and good; we have been advanced one step in parliamentary progress; we are so much nearer our goal if we are to reach it at all. I should hope that the Senator from Illinois would see his way clear to this conclusion, but if he does not of course I shall follow him.

I wish to say one word more before I sit down. I have understood that the Senator from Illinois apprehended that there might be some loss of position by reason of the fact that the bill having been assigned as a special order and then recommitted it could not be again made a special order without the assent of two-thirds of the Senate. My understanding of the rules is that if the House bill should be reported to-morrow morning from the Committee on Railroads, with whatever amendments they see fit to add thereto, immediately, without debate, upon a vote of a majority of the Senate to that end, the bill can be taken up for discussion, and having been taken up, the discussion can continue without limitation so long as the Senate pleases.

Mr. CULLOM. As against special orders?

Mr. INGALLS. As against all special orders.

Mr. CULLOM. I desire to repeat that my purpose is simply that the Senate shall consider the Senate bill sufficiently to draw from Senators whatever suggestions they may have in reference to it in the way of amendment. I know that one or two Senators at least have prepared amendments to the bill which the Senate is now considering, which amendments I would be glad to have offered so as to know exactly what they are, because they may be of that class of amendments which will be somewhat in harmony with the general idea of the bill under consideration and may be incorporated in the bill without very much discussion or delay. If the bill is to be recommitted I should like to have the benefit of those amendments before the Senate before the reference shall be made. Besides, I should like to know, as the honorable Senator from Kansas has suggested, when the bill is recommitted and the Committee on Railroads consider it and report it back, that we shall not be crowded out so that in the end there would be nothing further heard from the subject during this session of Congress. My purpose is, as I said awhile ago, that Congress shall not only consider the question as it has been periodically doing for the last ten or twelve years, but that something shall be accomplished in the interest of the people of this country in the way of legislation.

Mr. GARLAND. The amendments referred to by the Senator from Illinois can all be offered and sent to the committee along with what is now before the Senate. Now that we have reached a place to solve this matter for the time being, under the suggestion of the Senator from Kansas, let these amendments be sent in with the others, and let the whole subject be referred to the Committee on Railroads, and for one (I can only promise for myself) I shall do all I can to aid the Senator from Illinois in getting this matter up at any time and having a final conclusion upon it.

Mr. HARRISON. I think with the Senator from Illinois who is in charge of the bill that if we had employed the time that has been used this afternoon in discussing the methods by which to arrive at this matter upon the bill itself we should have made substantial progress.

Now, the measure is likely to come out of the committee in one of two ways, if it goes there under the motion of the Senator from Arkansas. I should say it would probably come back from the committee with the recommendation that the bill which our committee has already reported, modified perhaps by reason of suggestions which have been made since the discussion began, should be adopted as a substitute for the House bill.

Mr. INGALLS. As an amendment to the House bill.

Mr. HARRISON. Yes, as an amendment, but practically in common parlance a substitute, striking out all after the enacting clause and inserting. I do not profess to be possessed of prophetic power, but if the Senate bill with pending amendments and the House bill should be referred to the Committee on Railroads I think we should find that that

would be the result. If that is to be the result, is it not better, while the subject is before the Senate, instead of having the matter discussed in the committee, that the Senate itself should discuss it, letting the House bill go to the committee? Thus we should get the judgment of the Senate upon the pending amendments, one of which, as has been said, is substantially the House bill, at least the original Reagan bill, and when we have reached a conclusion upon the amendments in the Senate, if the Committee on Railroads will then take the bill as the Senate has perfected it, if it shall please them, and report it as a substitute for the House bill, we should be ready to vote in all probability and bring it to a speedy issue.

The only interest I have is that having this subject before us I think the wisest policy of those who would like to see legislation would be to adhere to the discussion of it and to go on with the decision of the pending questions upon the amendments until we have obtained an expression of the Senate upon the whole subject. Of course final action should be upon the House bill, but I believe we should be nearer an end of this matter if the Senate perfects the bill and if the committee are advised in advance, as they would be instructed by votes of the Senate upon each one of these particular propositions, and then present a bill as an amendment to the House bill which will meet concurrence without much discussion.

Mr. JONES, of Florida. The popular opinion is that this measure relates only to transportation by railroads. Whatever abuses or extortions have given rise to this and kindred measures I think have originated in that description of transportation. I have no hesitation in saying that the provisions of this bill, if the subject may require special attention, applies to the whole commercial marine of the United States engaged in the coasting trade. We have been legislating for a year or two with a purpose of building up our miserable commerce, as it has been called—our poor commerce, on the seas, not on the land, because I believe it was said that the railroad corporations have been well able to take care of themselves. But when it came to our struggling mariners and our little shipping interests along the coast, the Senator from Maine not now in his seat [Mr. FRYE] I remember session after session has been struggling to get laws repealed and laws enacted to encourage and build up that. I am sure on reflection that so far as that species of trade and commerce is concerned there is no special necessity for appointing a commission to prescribe the rates of freight that go to the poor ship-owners on our coast or that consideration ought especially to be given by the Committee on Railroads to that subject.

Mr. DAWES. I can not quite understand the reluctance to discussing this question, but I must admire the different devices which are resorted to for its postponement. If we desire to come to a conclusion upon this matter, the way is so plain, and the only existing way, that the effort to keep out of it is admirable to me. We have here the House bill and we have the Senate bill. If we are to accomplish anything, what we determine in the Senate will ultimately be put as a substitute or amendment for the House bill. The ordinary rules take the House bill to a committee. The Senate bill is under discussion. What we propose to substitute for the House bill must be the result of long discussion here. We have had part of that discussion; we are approaching a decision; we are coming to a conclusion as to what is the desire of a majority of the Senate; and the moment that appears evident every device seems to be resorted to in order to give it the go-by.

If we desire that the result of the discussions of the two Houses shall be a law, the plain way is for us to go on with the discussion of our own measure until we determine what is the will of a majority of this body. We bring it into shape and form, and when we have brought it into shape and form we have the thing which we are to offer as an amendment to the House bill; our discussion has closed; our minds are brought together; that which we shall determine is the best possible form of legislation will have been effected, and we shall have accomplished something.

But if there is any particular reason why this measure shall have the go-by for this session and not seem to be killed, if there is any good reason why we shall appear to be anxious to have some interstate commerce law and yet not have such a law, the means resorted to and the suggestions which I have heard within two or three days in respect to the best method to consider this bill are admirably calculated to bring about just such a result. We shall seem to the country to be exceedingly anxious to have some measure of relief, some law, and yet we shall go on with entire safety and with confidence that no such law will be the result of our deliberations.

As was said by the Senator from Illinois, such has been the course for ten years. The people of this country have understood that the Congress of the United States has been deliberating, has been devising some measure of relief as to interstate commerce; yet the Congress of the United States has rested in perfect confidence that however much it may debate the measure, sometimes at one end of the Capitol and sometimes at the other end of the Capitol, nobody may take alarm, nothing will come of it in the shape of a law.

But now the Senate of the United States has it in its power to enact a law. It has got in its possession the will of the other branch. All it has to do is to determine what is its own will, and it has a bill be-

fore it for that purpose. It has been for weeks trying to ascertain what its own will is. As it approaches the point where its will shall be determined, I hear from different parts of the Senate suggestions that after all we had better rest awhile; we had better take this deliberately; we had better not act rashly. A bill has come over here from the House and it is to go to a committee. Let us quietly subside and let that bill take its ordinary course in committee. It will come back here, and then after this interim we shall go on with our debate as to what measure we shall offer, if any, as a substitute for it, or some one will suggest that it had better go over until the next Congress.

Sir, if the Senate desires legislation it has it in its power to effect that result now, and the plain, honest, straightforward way is to consider the measure now before it. I hope the Senator from Illinois will resist any motion to take his bill out of the hands of the Senate and send it back to the committee to sleep there alongside of the House bill, which so long as it is there is safe.

Mr. CULLOM. I desire to inquire whether the motion to refer was not withdrawn.

The PRESIDING OFFICER. The motion to recommit is pending, with notice that, if that motion shall be agreed to, the motion then will be made to refer the House bill.

Mr. CULLOM. I hope the motion to recommit will be voted down.

Mr. CONGER. If these bills are to be referred to committees and to await the action there, both the Senate bill and the House bill, it seems to me the House bill should take its proper and legitimate direction and be committed to the Committee on Commerce, which has always had the consideration of intercommercial affairs. In conversation with some members of that committee it was thought that as the House bill had come over here it would be better that that bill should be referred, a little out of its order, to the Committee on Railroads, in order to facilitate the examination of the House bill and permit the Committee on Railroads in that examination to determine what disposition they shall make of the pending bill.

Without committing myself to either of these bills, or to all the provisions of them, I am free to say that I think the country expects some legislation upon this subject during this session that will in some manner relieve the country from the complaints which are continually made in regard to the subject of interstate commerce. I have thought, and so the chairman of the Committee on Commerce has thought, although I was not present when he made his remarks, that it would be better to forego the control of the House bill to the proper committee, the Committee on Commerce, and let it go to the Committee on Railroads, who have had so much charge of this whole question, and let the discussion in the Senate go on, and, as has been very properly said by the Senator from Massachusetts, let the Senate by its discussions and by its amendments at least come to some conclusion in regard not only to the Senate bill but as to what should be done with the House bill, for every Senator has the opportunity of seeing at a glance, even while the discussion is going on, what the House bill contains, although it may have been referred to a committee.

I assent to the proposition that the bill shall be referred to the Committee on Railroads instead of going to the Committee on Commerce, where it would probably belong, and where from some of its provisions in regard to water navigation it ought by all means to go, except that we can meet those questions perhaps here in the Senate as well as before the committee. Let this discussion go on and let the Senate proceed with the consideration of the Senate bill, and let the House bill be referred to the Committee on Railroads and be as soon as possible reported back in accordance with the will of the Senate with such amendments or such substitution as they shall think the votes of the Senate and the will of the Senate shall demand.

Mr. CULLOM. I hope the motion to recommit will be voted down, but I wish to suggest to the honorable Senator from Michigan that if it is the wish or view of the Senate that water-routes or transportation by water should not be included in the bill a very few amendments to section 12 would take all that out of the bill, if in the judgment of the Senate it ought not to be there.

Mr. CONGER. It was in view of the opportunity of making such amendments here that, after consultation at least with some of the members of the Committee on Commerce and what we thought would be the natural proprieties of amendments to the bill, we did not ask that even that part of the Senate bill should be sent to the Committee on Commerce—at least as individuals we did not—but that whatever amendments we might see proper to propose as individuals or as members of the committee for the interest of the water navigation of the country should be made in the Senate.

Mr. SLATER. It is quite apparent that there is no real difference on the two sides of the Chamber in regard to the result to be reached, parliamentarily speaking, on the bill. I shall vote to recommit the bill now under consideration, and should the Senate decide not to recommit it I shall then vote against the reference of the House bill, as I desire to have the two bills considered in conjunction. I think the proper method is by unanimous consent to let the House bill be printed, and let the Senate bill be considered as pending as a substitute to it. That will reach the point precisely, as I understand it, that both sides of the Chamber desire.

Mr. MAXEY. The object which I have in view is by some means to have the House bill considered along with the Senate bill. This bill now has hold of the Senate. The subject-matter of the House bill being the same as that of the bill before the Senate, the course which would be best would be to have the House bill considered along with the Senate bill, so that we may have the whole question before us. That is what I want to do, and if that can be accomplished better by retaining the Senate bill before the Senate, let the House bill be considered along with it without a reference, and then we shall have the whole matter before us.

Mr. CULLOM. I am informed that the House bill, which has been passed by that body and is now on the table of the Senate, will be printed by to-morrow morning, so that every Senator may have a copy of it. So far as I am concerned I desire that the House bill shall lie on the table and that we may go forward with the consideration of the bill before the Senate.

Mr. MAXEY. I said what I did with the expectation that the House bill would be printed by to-morrow, and with the further expectation that it was impossible to close the consideration of the Senate bill this evening, so that we should have the benefit of the House bill to-morrow.

Mr. ALLISON. I ask the Chair if the House bill will be printed unless there is an order to that effect?

Mr. MAXEY. I ask that it be printed.

The PRESIDING OFFICER. Under the rule when a House bill is referred it is printed. If it is not referred the Senate must order the printing.

Mr. ALLISON. I ask that it may be printed. Let that be understood.

The PRESIDING OFFICER. The Senator from Iowa asks the unanimous consent of the Senate to move at this time that the House bill be printed. Is there objection? The Chair hears none, and the order to print is made. The question now is on the motion of the Senator from Arkansas [Mr. GARLAND] to recommit the Senate bill.

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

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. WILSON] to the amendment of the Senator from Illinois [Mr. CULLOM].

Mr. GARLAND. I want to make a motion that we proceed to the consideration of the House bill, but the House bill has been ordered to be printed. I wish the Senator from Illinois, if he can see his way through, to consent to the proposition I submit. If we pass a bill of our own here and send it to the House it goes there as a Senate bill and may not be reached this session. If we take up the House bill and pass that, that ends it; or if we amend that bill and send it back to the House with amendment, we shall get a result sooner. Will not the Senator from Illinois consent to let this bill go over until to-morrow and then have us proceed to the consideration of the House bill and accomplish what he wants?

Mr. CULLOM. I should like exceedingly to accommodate the honorable Senator from Arkansas, but my purpose is to go forward with the discussion and consideration of the Senate bill until we get it as nearly perfected as possible, by which time I have no doubt the House bill will be printed and on our tables, and then, if the bill remains in the Senate, I propose to offer as a substitute, or rather as an amendment to the House bill, the bill of the Senate as perfected.

Mr. GARLAND. That is perfectly feasible, and then it will go back, if amended in that way, to the House with the amendment.

Mr. CULLOM. Certainly.

Mr. GARLAND. *And they will get on there much quicker than if we send them the Senate bill.

Mr. CULLOM. I have no expectation of pressing the Senate bill to a passage by the Senate. What I desire is to offer it, when it is perfected by the Senate, as an amendment to the House bill, so that the two bodies may come together.

Mr. GARLAND. With that understanding, that to-morrow we shall get to the consideration of the House bill, my purpose is reached.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. WILSON] to the amendment of the Senator from Illinois [Mr. CULLOM].

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Illinois as amended.

Mr. INGALLS. Let it be read.

The PRESIDING OFFICER. The amendment as amended will be read.

The Chief Clerk read as follows:

And said commission shall precede its first report with an investigation of the subject of interstate commerce, which shall embrace the subjects of establishing a system of both maximum and minimum charges for transportation, and for the preservation of free competition within the limits so fixed, for the prohibition of discriminations of any kind whatever, either in favor of or against cities, towns, or other localities, whether the same be competing or non-competing points, and for applying the same principle to transportation for individuals, firms, associations, or corporations in all matters relating to commerce among the States; for the preservation and enforcement of the right of shippers to select the lines and parts of lines over which their shipments shall pass, to the end

that said commerce among the States may avail itself of the all-rail or part rail and part water routes of the country; for the prevention of such pooling arrangements and agreements to refrain from just competition as may tend to impose unreasonable burdens upon said commerce among the States, and for the protection of said commerce against unjust exactions based on a class of securities commonly denominated "watered stock;" and said commission, in conducting said investigation, shall be guided by such rules of action as will be fair, just, and equitable toward all of the interests involved, whether the same be private, public, or corporate, connected with the subject of commerce among the States.

The amendment as amended was agreed to.

Mr. HARRISON. There is, I believe, now no amendment pending.

The PRESIDING OFFICER. There is no amendment except the one in the nature of a substitute.

Mr. HARRISON. I believe it was agreed that that should be withheld until the text of the bill as reported by the committee was perfected.

The PRESIDING OFFICER. The question upon the amendment in the nature of a substitute is suspended. Any amendment to either the original text or to the substitute will take precedence.

Mr. HARRISON. So I supposed. I rose for the purpose of moving to strike out in the first section the words after the word "President," in line 19, to and including the word "representation," in line 22.

The PRESIDING OFFICER. The Secretary will report the amendment offered by the Senator from Indiana.

The CHIEF CLERK. In line 19 of section 1, after the word "President," it is proposed to strike out:

And the commissioners shall be appointed so that the different interests affected by this act shall have, as nearly as possible, proper representation.

Mr. HARRISON. I believe the Senator from Louisiana [Mr. GIBSON] has an amendment pending to strike out the whole of this section after the word "Senate," in line 8, and it is proper, I suppose, that the vote should be taken on this, which proposes to strike out a smaller part.

I desire simply to say that it seems to me this commission should not be composed of men who are supposed to represent interests. The words which I move to strike out would imply that there was to be a railroad man on the commission, perhaps a railroad president or officer, and that there was to be some one representing the agriculturists, some one representing the manufacturing interests, and so on. If this commission is to accomplish the good which is expected of it it should not be made up of men who represent particular interests. We should not have there some one who understands that he is there as the representative of the railroad companies, and some one else that he is there as the representative of the interests of shippers who desire lower rates. We shall have no wise consideration of this question and no useful recommendations, in my judgment, from such a commission. I believe the President should be left free to choose men who will represent the general interests of the whole country, rather than to choose men who will stand for special interests. Therefore I move to strike out these words.

Mr. CULLOM. I was interrupted at the time when the amendment was read, and I ask that it be read again.

The PRESIDING OFFICER. The amendment will be again read.

The Chief Clerk read the amendment of Mr. HARRISON.

Mr. CULLOM. I do not care to take up the time of the Senate further than to say a word. So far as I am concerned I am not very particular whether that language remains in the bill or not. The Senate has had the opportunity of seeing the various enactments of different States upon this subject of transportation, and they will find that in most of them there is a reference to the different business interests of the country being represented upon the board. I think myself with the Senator from Indiana that there is probably nothing to be gained by that sort of a clause in this bill, if the appointing power exercises that discretion and prudence and wisdom which he ought to do, and which I suppose would be done in the case of the President of the United States.

I do not care to take up the time of the Senate in discussing the provisions, and hope the vote will be taken.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

Mr. McPHERSON. I should like to suggest to the Senator from Indiana that while the original appointments are made by the President with the advice and consent of the Senate, in the case of vacancies occurring by removal, resignation, or other cause there is no provision here that the Senate must agree to the Presidential appointments. Does the Senator from Indiana consider that that is implied in the section?

Mr. HARRISON. I am not responsible for that phraseology, but I should think that it would be implied.

Mr. McPHERSON. The original appointment, I see, must be by and with the advice and consent of the Senate; and in case of vacancy from any cause the provision is that the President shall fill it.

Mr. HARRISON. As this would be a public office, I suppose that without any such provision in the law the appointment could only be with the advice and consent of the Senate; but if the Senator has any doubt he can move to insert those words.

Mr. McPHERSON. I am not particular about it.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

A division was called for.

Mr. CULLOM. So far as I am concerned, I will withdraw any opposition to the amendment.

The question being put, there were on a division—ayes 17, noes 9; no quorum voting.

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

The yeas and nays were ordered.

Mr. GORMAN. I ask that the amendment may be read.

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read the amendment proposed by Mr. HARRISON.

Mr. BLAIR. The words there are "proper representation." I suppose that they are used simply in the sense of intelligent representation. It can not be possible that the provisions of the bill are for the creation of a commission that is to be made up of men interested specially for the railroads that are to be supervised; and yet the bill ought to provide, it seems to me, that this commission be made up of those who are intelligent upon the subject, and it would be very difficult to find men competent to supervise the transportation of the country who have not had more or less connection with and experience in the management of railroads.

I do not believe, since this language is taken from the acts of the various States, as the Senator in charge of the bill has stated, that there can be any possible objection to the present language. The word "proper" can simply mean intelligent, competent representation.

The question being taken by yeas and nays, resulted—yeas 26, nays 24; as follows:

YEAS—26.

Bayard,	George,	Miller of Cal.,	Sewell,
Beck,	Hampton,	Mitchell,	Sheffield,
Cockrell,	Harrison,	Pike,	Slater,
Coke,	Hoar,	Platt,	Vance,
Colquitt,	McPherson,	Pugh,	Van Wyck.
Dawes,	Manderson,	Riddelberger,	
Garland,	Maxey,	Sabin,	

NAYS—24.

Allison,	Conger,	Hawley,	Morgan,
Blair,	Cullom,	Jackson,	Palmer,
Brown,	Dolph,	Jonas,	Pendleton,
Camden,	Edmunds,	Jones of Florida,	Sawyer,
Cameron of Pa.,	Gorman,	Lapham,	Williams,
Cameron of Wis.,	Harris,	McMillan,	Wilson.

ABSENT—26.

Aldrich,	Gibson,	Lamar,	Saulsbury,
Bowen,	Groome,	Logan,	Sherman,
Butler,	Hale,	Mahone,	Vest,
Call,	Hill,	Miller of N. Y.,	Voorhees,
Fair,	Ingalls,	Morrill,	Walker.
Fairley,	Jones of Nevada,	Plumb,	
Frye,	Kenna,	Ransom,	

So the amendment was agreed to.

Mr. HARRISON. I move to insert at the end of section 3 these words:

Which is hereby declared to be a misdemeanor.

So as to make the section read:

SEC. 3. That if any transportation company engaged in interstate commerce shall collect, demand, or receive, in the transaction of the business of interstate commerce, more than a reasonable rate of compensation for the transportation of freight of any description, or for the use or transportation of any railroad-car upon its railroad, or on any of the branches thereof, or upon any railroad it has the right, license, or permission to use, operate, or control, said transportation company shall be deemed guilty of extortion, which is hereby declared to be a misdemeanor.

This bill is framed to punish what is here defined and is described as extortion by a criminal prosecution, but it is not anywhere declared in the bill what the grade of the offense shall be; it is not declared to be a crime or a misdemeanor, but it is said that a certain thing shall constitute extortion, and then in another part of the bill there is some provision for punishing it. I think it ought to be described so that the statutes upon that subject would apply.

Mr. CULLOM. I have no objection to the amendment, but the statement that it is nowhere described to be an offense, I think, is a mistake. I acquiesce in the adoption of the amendment.

The amendment was agreed to.

Mr. VANCE. Mr. President, I offer the following amendment—

Mr. HARRISON. Will the Senator from North Carolina while we are about it permit me to propose a similar amendment to the next section?

Mr. VANCE. Certainly.

Mr. HARRISON. I move that the same words be added at the end of section 4 where the offense of unjust discrimination is described. I move to add to the section:

Which is hereby declared to be a misdemeanor.

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

The amendment was agreed to.

Mr. VANCE. I now offer my amendment.

The amendment was read, being to insert as a new section after section 4:

SEC. 5. That it shall be a discrimination prohibited by this act if any railroad company shall charge, demand, or receive more for any package when shipped singly than for each of a number of like packages when shipped by the car-load, or in any greater quantity or number or in any less quantity or number than a car-load, the design and intent of this act being to secure an absolute

equality in rates between small and large shippers and consignees; except that a greater rate may be charged and demanded of shippers or consignees for freight shipped in less quantities than a car-load when such freight consists of horses, cattle, hogs, sheep, or other live stock, or of wheat, oats, corn, barley, or other grain shipped in bulk, and not put up in sacks, barrels, boxes, or other packages, or of pig, or bar, or slab iron, or of iron ore or other mineral ore, or of coal, coke, or coal-oil in a single tank or package to the car-load, or of lumber, logs, or firewood, or of any other commodity usually shipped or transported in bulk and by the car-load; but there shall be no difference or discrimination in rate as between shippers and consignees of the above excepted articles, whether such shipment shall be made by a single car-load or by a greater number of car-loads: *Provided*, That 10 per cent. may be charged and received on freight when shipped in single packages, and less than a car-load, in addition to the established charge on the same kind of goods, wares, or merchandise when shipped in like packages by the car-load, if the freight on all the articles shipped to the same consignee, to be delivered at the same point and at the same time, shall be less than \$20.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina.

Mr. VANCE. Mr. President, the subject of the regulation of interstate commerce by the General Government was so ably and elaborately discussed by the Senator from Mississippi [Mr. GEORGE] a few days since that I do not deem it necessary to add anything more; but I desire to say a few words in the same line in relation to this amendment.

The tendency of our financial economy is toward the concentration of capital in a few hands; and capital concentrated in a few hands has a power of its own that enables it to tyrannize over capital that is scattered in many hands and in small amounts. Now, our laws forbid absolutely the tyranny of one man over another or of any kind of restraint whatever by one man over the personal freedom of another. Why should they not, as far as possible, also forbid the tyranny of superior means over inferior means?

The prime object of our free institutions is to secure the absolute equality of all the citizens before the law. Why not complete the idea and grant them all, rich and poor, an absolute equality in methods of acquiring wealth? You may say our laws already do this; that they apply alike to all men; and if one man is more shrewd, more zealous, more frugal and wise than another, and so gets ahead of his rival in business, it can not be helped, and it is not the function of legislation to remedy the disparity. Very true this is as between private citizen and private citizen. I would not have it otherwise if I could. It would indeed be an ill-arranged moral world if success was not the reward of diligence, frugality, and industry. And it would be quite as bad an arrangement perhaps if legislation were required or even permitted to step in and prescribe the dealings between the poor and the rich, between great dealers and small ones, between wholesale and retail bargain-ers.

If, therefore, a capitalist can by buying largely get goods at cheaper rates than the small dealer and thus undersell him and break him down, of course this is beyond the reach of legislation, for a man may lawfully do as he will with his own. He owes no duty to the public in this regard, and the law permits him to be selfish. But railroad carriers are public servants; they are created by the public for certain purposes, and to this end they are granted certain high powers and privileges. They are invested with a portion of public sovereignty; as the law expresses it, they are affected with a public interest and owe a duty to the public. In obtaining, therefore, a portion of the public sovereignty they necessarily relinquish a portion of the rights of private citizenship, notably that of exemption from the public control of their business methods within certain reasonable limits. To give them artificial life and perpetual existence, to give them power to condemn the private property of the citizen for their use, and to give them exclusive control of the highway for their vehicles, and then permit them to go uncontrolled as absolutely as though they were private citizens in the management of their business, would be a monstrous proceeding indeed. It would be the story of Frankenstein converted into actual fact.

Therefore when capital buys and sells by the quantity to the injury of small dealers we can, in either justice or wisdom, say nothing. But when capital obtains transportation for its wares over the railroad lines of the public carriers at cheaper rates than the small dealer, by reason of the wholesale character of the freights or for any other reason, to the injury of the poorer man, then the public, through the Government, becomes a party to this injury. It then becomes an injustice and a wrong, and not a mere misfortune inevitably resulting from the laws of trade. It then becomes the duty of the public by proper legislation to redress the wrong and to restrain its agents. In vain is the attempt to justify these discriminations on business principles; as well might a judge say that he is justified in imposing a light penalty on a criminal because he was a wholesale offender, and a heavy one on the unfortunate man who is honest enough to be brought into court only occasionally.

The function of the judge is to do justice impartially. The purpose of creating these carrying corporations was to carry goods for the citizens with like impartiality. Those acquainted with the details of the daily business of the people well know that the traders of small means are absolutely at the mercy of their rivals of greater capital in all traffic where freight charges enter considerably into the cost of the article. The big fish are constantly swallowing the little ones. It is bad enough that, in the nature of things, this must be so, but I submit that it becomes an iniquity when the law, through its chartered creatures, becomes a principal party to such a proceeding.

The subject to which this bill relates constitutes in my opinion the coming question of American politics. For the next twenty years it will be discussed and examined with ever-growing interest. Many mistakes will doubtless be made in the attempt to legislate upon it with justice to the people and the corporations. But a solution of the problem will be found. It may be that this bill is one of the mistakes, but it is a step in the direction of a much-desired object. I hail its appearance as proper tentative legislation.

One thing is very certain, indeed—that the people are not going to submit quietly to a condition of things which shall make the destiny of commerce and all other methods of acquiring wealth utterly dependent on either the caprice, the forbearance, or the greed of railroad corporations, uncontrolled and uncontrollable. I confess the difficulty of legislative interference in the practical details of railroad transportation without doing as much harm probably as good. It is a highly complicated and technical business, requiring both talent and experience to comprehend it aright. The experts are constantly throwing this into the teeth of legislators and defying their ignorant efforts at a remedy for the people's complaints. However little the average legislator may know about railroad transportation in contrast with an experienced official, he yet knows enough to understand that he should try to protect the people of little means against the extortions or discriminations of incorporated capital, and that effort will continue to be made until the proper remedy is found, for the genius of the people of the race to which we belong has always been found adequate to the proper redress of all grievances which have retarded their social and material progress.

This remedy would doubtless be found sooner, and at less cost to all parties, if the great body of the carrying corporations would co-operate, as some of them have done, with the people's representatives in procuring that just and wise legislation which is so much desired. In this way their experience and great abilities could not only be made of service to the country at large, but of greatest use to the interests of their own investments; for this is the safest and surest preventive of communism and the destruction of the mob. There are no reasons but mistakenly selfish ones why railroads should not be made as popular as they are beneficent in their general tendency as the chief implement of modern progress. Their recent management has created well-grounded fears both of their effect on the just distribution of public wealth and of their influence on the freedom and purity of our institutions. Let the wise among the many very able railroad men of the country look to it.

Mr. GEORGE. Mr. President, the amendment offered by the Senator from North Carolina [Mr. VANCE] is in my judgment very important, whether regarded with reference to the principle involved in it, or considered in reference to the practical effects to flow from its adoption. I am aware, sir, that it is not likely to meet the approbation of the Senate; yet my convictions are so clear both as to its abstract justice and the great good that would come from its adoption, that I should consider that I had failed in the discharge of my duty as a Senator if I were to allow any considerations as to its popularity or any motive connected with my personal fortunes or my personal comfort and convenience to influence me to omit any effort in my power in conjunction with the Senator from North Carolina to secure for it the favorable judgment of the Senate. While, sir, I think this as to the chances of its adoption now, I have the strongest conviction that in the near future the principle on which it is based will prevail.

In all the discussion on the subject of railroad supervision it seems to be conceded on all sides that if there be one evil in railroad administration which should be remedied it is the practice of discriminating between shippers. It seems to be acknowledged by all that these institutions, in discharging the functions for which they were created, should treat all alike; giving to none advantages denied to others, and imposing on none unequal burdens, so that these great and essential agencies of commerce would be equally the servants and benefactors of every class of our people. And with this conceded universally, it seems strange that the practice of charging for goods commonly shipped in separate parcels or packages a higher rate when one or a few parcels only are shipped than when a large number are the subject of the shipment should not be as universally recognized as an unjust discrimination against the small shipper. This must arise from the application of the commercial principle, as it is recognized and acted on in transactions strictly private, to the performance of public duties by an agency which, though private in its ownership and in the profits it may gain, is nevertheless in its essence, in its creation, and in its service a public instrumentality, and subject to the supervision and control of the State.

Certainly, sir, I need not prove that railroad companies are public institutions in the service they render, and are therefore subject to regulation and control in their methods by the State. If anything is settled in American law that is settled. These companies themselves acknowledge and act on this when favors are to be granted and exceptional privileges are to be bestowed. They have been the recipients of bounties and subsidies from the Federal, as well as from State and municipal treasuries. They are the donees of the power of eminent domain, by which they lay their tracks and erect their depots wherever they will, on whose land they please, without the consent of the

owner. On no other ground than that they are public institutions, created to perform a public work, useful and necessary for the public good, can these privileges or powers be claimed or granted. That is clear and undoubted law.

Then, sir, how are they to perform this service? We have assumed, sir—I believe nobody disputes that—that this service must be on reasonable charges. The bill reported by the committee assumes this and undertakes to enforce it. The bill also undertakes to prevent discriminating rates between shippers for similar service under similar circumstances. We seem to be agreed on that. No bill, or substitute for a bill, has been introduced in either House of Congress, as far as I know, which does not provide against discrimination. The object of the amendment is solely to prevent discrimination. The question seems to be this, and this only—whether the fact that one man has a larger quantity of goods for shipment than another, but the goods of both being of the same kind and alike packed in separate parcels, and both received at the same place and shipped to the same destination, constitutes such a dissimilarity in the circumstances as will justify a railroad company in making discriminating rates, charging more per package to the smaller shipper than to the larger; or, to state the exact case in different language, whether the adoption of a rule by the railroad companies by which men of small capital shall habitually be made to pay more for the same service than is charged to their rivals in business who have larger capital is a just and proper mode of performing a public service. There seems to be but one answer to this proposition, unless we are prepared to say that a difference in wealth justifies a difference in charges, or burdens, by a public agent in favor of those who have the most of this world's goods. I do not think we are prepared to say this, nor is the country prepared to accept it as a just and proper rule of public service.

If it be said that a railroad company can transport goods more cheaply when a single person shall ship a car-load than when the car is filled by the goods of several shippers, I answer, if this be conceded, it is an argument which the railroad companies have no right to insist on, since they habitually refuse to regulate their charges by the cost of transportation. Their practice is to charge not according to the cost to them or the value to the shipper of the work done, but according to the rule of "what the traffic will bear." Cotton, corn, wheat, iron, coal, furniture, dry goods are charged different rates for the same amount of work. The division of freights into many different classes is based solely on the idea that these different classes are charged different rates for the same work. The rule of equal charges for equal work and equal cost on transportation is also habitually violated in the higher charges for short hauls between non-competitive points than for longer hauls where there is competition. This pretended rule has no existence whatever in railroad transportation. It is utterly repudiated in practice. I submit, sir, with confidence that an assumed rule, existing only in imagination, condemned and repudiated by the railroad companies in practice, can not be invoked by them to justify acts of injustice and wrong.

Sir, I am not bound to go further than to show that the railroad companies are estopped to make the argument what I have answered; yet I will do so. The amendment asks for positive interference with the business of railroad companies, and I admit that no such interference should take place for light or trivial causes, but only on grounds of great public good. I proceed now to demonstrate that the highest public good demands this interference.

No man who has given the slightest consideration to what is going on all over the civilized world can have failed to notice the centralization or concentration in commercial and industrial affairs which so strongly marks the present age, and no man who has reflected seriously on this subject has failed to perceive the great revolution it has wrought, and the still greater changes now daily going on as a consequence of it, not only in our economic system but in our social order, and even in our political institutions. A thoughtful English writer has said in a late number of *McMillan's Magazine*:

Industrial concentration, above all, is the rule of the age. Steam has extinguished handicrafts, and as steam-power is most economically applied on the largest possible scale, its every development aggravates the general tendency to aggregation, to the concentration of business in larger and larger establishments, the extinction one after another of the smaller. Trade after trade is monopolized, not necessarily by great capitalists, but by great capitals. In every trade the standard of necessary size, the minimum establishment that can hold its own in competition is constantly raised. The little men are ground out, and the littleness that dooms men to destruction waxes year by year.

I regret, sir, that these uncomfoting words are but too true. The condition of affairs they represent is sad and alarming. So evident is and has been their truth for years, at least to my mind, I shall beg the indulgence of the Senate to repeat what I said in this body in July, 1882, in advocacy of the proposition to remove all custom-house taxation from the tools of mechanics and implements of agriculture. I then said:

Sir, I look with alarm at the modern tendency of affairs to destroy these independent laborers carrying on business for themselves and the absorption of all such in large workshops under a master. I fear that this tendency can not now be successfully resisted. The perfection of the many curious and useful machines to save human labor, the substitution of the steam-engine and machinery for human muscle and human intelligence, the greater efficiency of labor coming from its subdivision, all tend more and more to put all mechanical labor

under the control of large capitalists in large shops. * * * We are in that era of the world's progress in which great capital employing large numbers of laborers is the rule.

I further said, on that occasion, that if this tendency to centralization in business affairs could not be successfully resisted, the evils, like all others, might be ameliorated, and the best means to do it was to foster and encourage independent workers in independent employments—small enterprises as against the overshadowing power of large establishments. I repeat that sentiment to day. I press this amendment with that object. I know, Mr. President, that large capital has a legitimate advantage over smaller means. This advantage is inherent in it. It can not be taken away. I have no wish to legislate against these advantages so far as they are legitimate and proper. They constitute the principal if not the sole incentive to the energy, enterprise, and self-denial necessary to the production of wealth. Without this enterprise, without this energy and self-denial, there can be no progress. It is the possession of these which makes the difference between an advancing and progressive people and the deadness of retrogression or the languor of a semi-civilization.

That a man will sell a million of bushels of corn or wheat, or a million yards of cloth, or a million pounds of meat, or of any other commodity, for a less sum per bushel, per yard, or per pound than he will sell a small quantity results from a necessary economic law—it is more beneficial to him. That he who is able to buy and does buy in these large quantities can buy cheaper than he who buys less results from the same law—it is more beneficial to the seller. This advantage, therefore, is inherent in the possession of large capital. No human law can take it away. The attempt to do so would be an unwarranted and, at the same time, unavailing invasion of private right—a despotic dictation in the private and personal affairs of mankind, inconsistent even with the enjoyment of private property. Nor, sir, can any human law regulate or fix the price to be paid for any commodities offered for sale in private trade, nor the price which one man may charge another for work or labor. All these must be left to the laws which govern and regulate trade and traffic among mankind, and the agreement of the parties, when they are on equal terms.

It is equally unavailing and equally violative of private and personal right to attempt to reverse by direct legislation, by positive enactments of repeal or destruction, the economic laws to which I have alluded, and which have produced the alarming tendency to concentration spoken of by the writer I have quoted and recognized as true by all thoughtful men. You can not, sir, by force of a statute decree that small enterprises, small establishments, shall be more profitable proportionately than larger ones. What has been evolved by the natural and normal operation of economic forces in the present condition of human progress and human conquest over the powers of nature must remain so until further progress, further conquest, shall produce different results.

But, sir, while we are thus impotent to reverse or repeal these economic laws and thereby arrest entirely or abrogate the present tendency to concentration and aggregation in industrial and business affairs, yet as human laws may and have increased this tendency human laws may retard it and lessen the hardships arising from it. If we can not fix the price of commodities as between private traders nor regulate the price of labor or service in private employments, we can and do accomplish this to a great extent in public employments. This bill now under consideration is an attempt to do this. The amendment is also an attempt to do this, with the superadded effect of counteracting this baneful tendency. If it be true, as we know it is, that under the present order of things the little men, little enterprises, are doomed to destruction, that the general tendency is to the aggregation and concentration of business in large and larger establishments, then it is also true that this tendency is increased and accelerated by the practice of these public institutions in adding to the weight of the already overburdened small enterprises a discriminating heavier rate in freight charges.

The little men, the little establishments, must not only contend with all the natural and inherent advantages arising from the possession by their rivals of larger capital, but they must also counteract an adventurous and inequitable superiority arising from the misuse of a public agency intended for the equal benefit of all. He who could but with difficulty stand the competition of larger capital, with its natural and inherent superior opportunities and greater equipments for the contest, is crushed by the superadded, differential burdens imposed by the railroad companies. Sir, there is no spectacle which ought to engender a warmer sympathy or a purer admiration than that field on which a man of high aspirations, yet undowered of fortune, wages with noble self-denial and tireless energy an unequal contest with inherited or acquired wealth for independence and success in life; and there is no sadder reflection than comes from the conviction that the conditions of life are such that the chances of such a man for success are diminishing more and more every year. I am not speaking now of those rare instances in which extraordinary talents and extraordinary natural endowments are seeking advancement, but of the general average of our people. What is good for them is good for the Republic; what is bad for them is bad for the Republic.

Mr. President, if society had so crystallized here into castes and classes that he who is born into one class must always remain in it, if a member of what is called the laboring classes—wage receiver—must always remain an employé receiving wages from others, I would admit that whatever would cheapen production, even this concentration and aggregation of capital, now favored if not compelled by the present system and the destruction of all smaller enterprises, would be a public good. For in that case the condition of the laboring classes would be improved in the opportunity furnished of providing comfort and necessities at a cheaper rate. But, sir, we have not yet reached that state; it is the highest duty of statesmanship to devise measures which will prevent its coming. It has been our boast that under our institutions every child is born to all the possibilities of good fortune. We should take care that this boast is not idle.

We take a proper step in this direction when we make provision that at least in the administration of public institutions, the management of railroad companies, nothing shall be tolerated which shall make success more difficult to small enterprises, to men of small capital, in their struggle with larger establishments. We may well forego the utmost cheapness of production, possible only by the crushing out of all small enterprises, if we foster and encourage the manhood and independence of the American people by removing as far as we may the obstacles which bar success and advancement to most of them.

Mr. President, it will be a rueful day for America when the great mass of our people shall settle down in the belief that all improvement in their condition is impossible; that the prize of independence, at least, coming from the possession of that moderate degree of property necessary for the gratification of the tastes and domestic ambitions of men, can no longer be won by less than the most extraordinary abilities and the most tireless energy and the severest self-denial; which means that it is unattainable by the mass of the people. I quote from the author already referred to:

Men covet what they may hope to win; they grudge what they are practically if not legally forbidden to attain. Hopeless intellect, despairing ambition, are dangerous in proportion to the greatness of the prizes, the insuperability of the obstacles before them. The more heavily the powder is loaded, the more probable and more destructive its explosion. Aspiring strength and courage never acquiesce in defeat. They will climb the mountain if they can; but if not, they will strive to level it.

These words are the more weighty if it shall also be accepted as true that these hard conditions result or have been hastened or fostered by the action of the Government or the practice of public instrumentalities subject to the control of the state.

Mr. President, the greater part of a frugal and laborious life has been devoted to the acquisition of that small share of capital necessary for comfort and independence. I desire to protect and shield it, not to destroy or endanger it. I know this can not be done by making or permitting it to be a despotic and unfeeling master instead of a useful servant of society. There ought to be such relations between capital and labor, between large capital and small capital, as would secure the harmonious co-operation of both and all for the common good. And in the end, in a free country with universal suffrage, this co-operation will be secured, or either capital or the free institutions will be destroyed. They can not coexist for any long period in irreconcilable antagonism.

So, sir, if I could forget the ills resulting from its misuse, if I could forget its aggressions or its failures, if I shut my eyes to the misery of the thousands of idle laborers who, from a want of harmony and co-operation between them and their employers, are suffering in penury, and would consider alone the interests of capital, I would support this or any other just measure which would tend to a greater harmony, a surer co-operation between these now antagonistic forces.

At this very moment when we are considering this important measure, these conditions which intensify this antagonism exist more generally than ever before in our history. Notwithstanding our high protective tariff, passed avowedly in the interest of American labor and the owners of small capital, our farmers, there never was more distress. Strikes, which are the protests of labor against what it considers its failure to receive a just share of the joint products of labor and capital, were never so numerous. Want, hunger, and pinching poverty have invaded the households of nearly all who depend on their labor for their daily support. Where men are not wholly without work their wages have been reduced from 20 to 30 per cent. The products of the farm have fallen to that point where they do not pay the cost of production. The farmers are unable to pay their debts; they are unable to make purchases. This reacts on the commercial and manufacturing interests of the country. The pressure is so great that only the greatest and the strongest establishments can stand.

We hear everywhere the cry of overproduction, which is but another name for underconsumption, caused by the inability of the great mass of consumers to purchase. Overproduction can not commence till all have an abundance.

I read from the New York Herald of the 21st December last the following, and ask for it the careful consideration of the Senate:

Events have succeeded so fast in commercial and financial circles that it is difficult to keep pace with them. The universal clamor against the railroads, the continuance of business failures, the industrial depression, the disruption of the coal pool, and the general shake up in Wall street, all claim attention and are earnestly discussed.

DEPRESSED TRADE AND IDLE WORKMEN.

Failures are numerous as ever, and with the possible exception of cottons no improvement is reported in any branch of trade. It is pleasant to note that several iron and steel works in Ohio and Pennsylvania are to resume to-morrow after several months of idleness; but the general situation is by no means cheerful. Statistics collected by Bradstreet's in twenty-one States, which represent 90 per cent. of the manufactures of the country, indicate that 350,000 workmen are idle, and in this city alone about 55,000 industrious workers, besides several thousand clerks and salesmen, are unemployed. Of those who are at work the wages of unskilled laborers have been cut down—taking the country at large—from 20 to 30 per cent. during the current year, and skilled laborers generally are receiving from 10 to 15 per cent. less than a year ago.

LOW PRICES OF COMMODITIES.

Commodities have been reduced perhaps in proportion, and the "staff of life," in its crude form and at wholesale, touched the lowest price on record during the past week. Out West the farmers continue to cry out that they are not getting first cost for their crops, and the agitation against the railroads in that region is at white heat. Kansas farmers, who get but 12 cents a bushel for corn, while the railroads charge double that amount for carrying it to Chicago, are certainly confronted with a seeming injustice, and it is natural that they should call upon the roads to divide the pressure of hard times by reducing freights.

Now, Mr. President, I do not claim that all these ills come from the action of railroads in discriminating against small shippers. I call attention to these uncomfortable facts more to show that our present condition is unsatisfactory and is of that sort that greatly tends to increase and intensify the antagonism between these belligerent forces. That some of these ills have been increased by this discrimination I do not doubt. It seems too clear to require argument that if there were more independent workers a fairer and more equal distribution of manufactures and business among the many, instead of this concentration in great establishments and under great capital, there would be a greater reserve fund for the community to fall back on in times of distress than there is now, or at all events this reserve fund would be more generally distributed and therefore more efficacious to ward off and remove distress.

Mr. President, if this amendment, or something like it in principle, should be adopted we might, I think, look with confidence to the following good results:

1. Small enterprises of all kinds would be encouraged and fostered, and the present tendency to divide the people of this country into two great classes, one of large or associated capital as employers and the remainder as employés, would be checked. That middle class of enterprising, energetic men, of little or no capital, who have done so much to advance our prosperity and to make our free institutions stable and orderly, and which under the present system are disappearing, would be increased not only in number but in influence and power.

2. There would be a great saving in the cost of distribution. Under the present system, as I fully pointed out on another occasion, our created wealth is largely concentrated in large cities, and from these centers both manufactures and agricultural products are distributed to the country tributary to them respectively. If small shippers were charged no more than the larger the agricultural produce of the West would go from the shipping point nearest to the place of production directly to the consumer in the South and in other States, and the expense and delay of shipping to the great cities and thence distributing to the consumer would be avoided. The producer and consumer would be brought nearer together and the profits of middlemen saved and divided between them. The producer would receive more and the consumer would pay less.

The present system of concentrating all agricultural products in the warehouses and elevators of a few large cities prior to distribution for consumption has begotten the great evil of dealing or gambling in futures, and enables a few men to make "corners," whereby the price of these products, after they have gone from the producer, is frequently raised inordinately to the consumer, and sometimes these prices are unduly depressed to the injury of the producer without corresponding benefit to the consumer. This would be checked by bringing the producer and consumer more directly together. My own State has been and is now the victim of the unequal charges sought to be remedied by the amendment, and of the higher charges for short over longer hauls, on which I commented a few days ago. The merchants and farmers of Mississippi are made to pay more on goods shipped from the North and West than consignees who receive their goods from railroads hauling them through the State. Freights from Cincinnati to New Orleans are lower than from Cincinnati to any point in Mississippi through which goods are carried on the longer trip. By the two evils combined the growth of her cities and towns and the advancement of her farmers have been sacrificed to the building up of other communities more favored in railroad transportation. While, as stated in the extract from the New York Herald, the farmers of Kansas get 12 cents a bushel for their corn the consumers in Mississippi pay for it from 75 cents to \$1. This great difference, amounting to from 600 to 800 per cent., is wholly lost to the producer and is largely added to the burden of the consumer over a fair and reasonable price.

4. It would be a step in the direction of having legislation in favor of labor and small capital, and would tend to dissipate a feeling and sentiment existing in too many localities and among too many persons that legislation has been and will continue to be adverse to these interests. This, sir, will be one of the most beneficent effects of the amendment.

The large and prodigal land grants made to railroad companies, and the failure of Congress to restore them to the public domain when they

have become forfeited; the extra privileges granted to the banks, whereby they are said by their friends to be the "pets of Congress," the relieving them of most of the taxes once imposed on them, the effort likely to succeed to relieve them entirely, and the leaving to them the power to contract or expand the currency at will; the establishment of a gold standard, whereby the burden of debts has been greatly increased; the taxation of the commonest necessities of life and of the implements and tools used by laborers; the extravagance and corruption in administration; the collection of a large surplus not needed for the support of the Government, are some of the things which have created the impression among the people that the Government is unduly neglectful of the interests of labor and small property-holders. This impression produces discontent; and especially is this discontent in some parts threatening to-day. The best way to remove discontent is to remove the cause. Where there is injustice and wrong there will be remonstrance and active opposition.

I quote without indorsing fully the words of a great preacher, spoken only a few days ago:

DANGERS OF ANARCHY.

Let us remember that the same social movement of the workingmen is running abreast of the new Christianity, as in the time of Wycliffe, and an old order is passing away. Liberty has degenerated into license; self-interest has turned out selfishness; natural law has left us no place for moral law; the right of might has legitimized a new tyranny; *laissez faire* has resulted in chronic crises. If my buggy is constantly breaking down, I know it is time to get a new one. So when our commercial system comes to a standstill every ten years it is time to have a new one. Bradstreet's is authority for the statement that 300,000 are out of work in our most favored land. There is danger of anarchy to-day, and any one who reads the wild and fiendish utterances at Chicago on Thanksgiving Day may see the danger.

Power and wealth may try repression. Now, there is nothing quite so sure of creating an explosion as to pile the weights on the safety-valve when there is a furious pressure of steam on. That may come in the nineteenth century, as in the fourteenth. That will come unless relief is found for the forces of discontent.

And you large-minded men of business, see to it that no irritation springing out of the intolerant and disagreeable attitude which labor may assume to-day in its consciousness of power shall prevent you from doing your duty. See to it that the standard of the age which is held up before the advancing army of humanity is none other than the form of the Carpenter's Son.

He sees danger more imminent than I do, yet I confess there is that in the present condition of affairs which ought to make us pause and reflect whether in our rapid strides to and eager pursuit of great wealth we are not sacrificing to magnificence and splendor in outward appearances the real interests of the great mass of the people, upon whose labor, intelligence, and thrift all substantial progress depends.

I am sure, sir, that nothing can do more to remove discontent and to break down any incipient spirit of anarchic socialism than the conviction, if it should prevail, that the American Congress is doing and is disposed to do all that may rightly and constitutionally be done to make the operations of the Government equal to all in its benefits and in its burdens. The adoption of this amendment would aid in producing this conviction, and it would aid also the struggling weak in their unequal contest with the strong, by establishing a just equality in a public service.

I hope the amendment will be adopted.

Mr. BROWN. Mr. President, I desire to offer the following amendment to the amendment of the Senator from North Carolina:

And be it further enacted, That no merchant shall sell a larger package or quantity of goods at a smaller per cent. than he charges for a smaller package of goods of like quality if the goods have been produced in or transported from another State so as to fall within the power of Congress to regulate interstate commerce.

The PRESIDENT, *pro tempore*. The Senator from Georgia proposes an amendment to the amendment offered by the Senator from North Carolina. The amendment to the amendment will be read.

The Chief Clerk read as follows:

And be it further enacted, That no merchant shall sell a larger package or quantity of goods at a smaller per cent. than he charges for a smaller package of goods of like quality, if the goods have been produced or transported from another State so as to fall within the power of Congress to regulate interstate commerce.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 9, 1885.

The House met at 12 o'clock m. Prayer by the Right Rev. H. A. NEELY, D. D., Bishop of Maine.

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

ORDER OF BUSINESS.

Mr. HUTCHINS. I rise for the purpose of moving to dispense with the morning hour, so as to bring before the House for consideration the naval appropriation bill.

Mr. TALBOTT. I ask the gentleman to yield to me for one moment.

Mr. HUTCHINS. I yield to the gentleman from Maryland.

JOHN W. FRANKLIN.

Mr. TALBOTT. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. 491) for the relief of John W. Franklin, executor of the last will of John Armfield, deceased. The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to pay John W. Franklin, executor of the estate of John Armfield, late of the county of Grundy and State of Tennessee, \$18,000.21, out of any money in the Treasury not otherwise appropriated; it being the proceeds of \$30,000.36 in legal money taken from the Bank of Louisiana, at New Orleans, La., by Capt. J. W. McClure, assistant quartermaster, under military order No. 202, and by him turned over to Col. S. B. Holabird, chief quartermaster of that department, and by him disbursed; and such payment shall be in full of all claims from any source upon the Government for repayment of said moneys.

Mr. HOLMAN. I suggest that the report should be read.

Mr. TALBOTT. I will state that the report in this case is quite a lengthy one. The bill has been twice reported and passed in the Senate. It has been unanimously reported by the Committee on War Claims of this House, and a similar bill is pending before the House.

Mr. DIBRELL. The bill simply proposes to give to a lady money captured from her husband and paid into the Treasury of the United States.

Mr. McMILLIN. I wish to state that I have examined the claim and I think it is correct.

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

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

Mr. TALBOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATHAN H. DUNPHE.

Mr. LONG. I ask unanimous consent that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. 754) for the relief of Nathan Y. Dunphe, of Bridgewater, in the State of Massachusetts, and that it be now put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Nathan Y. Dunphe, of Bridgewater, in the State of Massachusetts, the sum of \$9,370, in full compensation for fifty hogsheads of sugar which were seized in the State of Louisiana, in the year 1862, by the military authorities of the United States, turned over to the Quartermaster's Department, and properly accounted for by that department.

The following amendments were reported by the Committee on War Claims:

In line 5, strike out "Y" and insert "H."
In line 6, strike out "\$9,370" and insert "\$2,400."
In line 8, strike out "50" and insert "25."
In line 10, strike out "1862" and insert "1863."

Amend the title so as to read: "A bill for the relief of Nathan H. Dunphe, of Bridgewater, in the State of Massachusetts."

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

Mr. RANDALL. Is there a report accompanying it?

Mr. LONG. There is a report. The bill is reported unanimously by the committee. If it is desired the report may be read.

Mr. HOLMAN. Let the report be read.

The report (by Mr. ROWELL) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 754) for the relief of Nathan H. Dunphe, have had the same under consideration, and report as follows:

Nathan H. Dunphe, a citizen of Massachusetts, engaged in trade in Louisiana at the breaking out of the war, and was the owner of two lots of sugar of fifty hogsheads each. One lot has already been paid for by the Government, but owing to a lack of evidence as regards the other lot, until after the passage of a bill for his relief, the second lot was not included under the evidence before us. It is now certain that twenty-five hogsheads, weighing upon an average 1,200 pounds, and worth at the lowest price 74 cents per pound, were taken by the proper seizing officer of the Army, under command of Maj. Gen. N. P. Banks, in May, 1863, and sent to New Orleans and turned over to the proper officer.

This sugar was in a public warehouse at Port Barre, La. All sugar in that vicinity appears to have been seized under orders.

Dunphe was a loyal citizen, and ought to be paid. The remainder of his sugar was destroyed in a storm, so as not to be marketable, and was not sent to New Orleans, but was taken and used by the soldiers. This we do not allow.

We therefore recommend that the bill do pass, with the following amendments:

In lines 6 and 7 strike out the words "nine thousand three hundred and seventy" and insert in lieu thereof the words "two thousand four hundred;" and in line 8 strike out the word "fifty" and insert the word "twenty-five;" and in lines 9 and 10 strike out the word "sixty-two" and insert the word "sixty-three."

Mr. HOLMAN. I wish to ask a single question, whether it appears from the testimony that the proceeds of this sugar sent to New Orleans were paid into the Treasury.

Mr. LONG. It appears from the report that it was accounted for by the Quartermaster's Department.

Mr. HOLMAN. It is desirable that that fact should clearly appear.

Mr. LONG. The gentleman from Illinois [Mr. ROWELL], who reported the bill, can state what is the fact.

Mr. ROWELL. The sugar was turned over and accounted for at New Orleans, and used by the proper officers for the use of the Army.

Mr. McMILLIN. Was there a portion of this given as a reward for information at the time of the seizure?

Mr. ROWELL. Not in any way. It was only applied for the use of the Army.

Mr. TOWNSHEND. This bill is of the nature of a number of similar cases now pending.

Mr. HUNT. All of the same nature ought to pass.

Mr. TOWNSHEND. It is of the nature of a great many claims, some of which are from my own section, and not one of them has received the attention of the committee.

Mr. HOLMAN. I do not wish to object, but as to all this class of claims the fundamental principle has prevailed that in passing bills to refund money it should be made clear that the money has gone into the Treasury. The fact that here it has been accounted for does not appear definitely. I do not, however, wish to object.

The SPEAKER. The question is on concurring in the amendments. The amendments were agreed to.

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

The title was amended so as to read "A bill for the relief of Nathan H. Dunphe."

PERSONAL EXPLANATION.

Mr. POTTER. Mr. Speaker, I rise to a matter of privilege. The gentleman from Pennsylvania [Mr. EVANS] is stated in the RECORD of Wednesday last as having been paired with myself upon the pension appropriation bill. I was present and voted in favor of that measure, not understanding the pair to extend beyond last week. The gentleman from Pennsylvania understood otherwise. If he had been present he would have voted for the pension appropriation bill, and desires to have it so stated.

ENROLLED BILLS SIGNED.

Mr. PERKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. 737) to remove the political disabilities of J. R. Waddy, of Virginia; and

A bill (H. R. 4539) to issue American papers to the lighter, or barge, Pirate, now at New York.

HARBOR OF REFUGE AT LUDINGTON, MICH.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, inclosing report of board of engineers of a preliminary survey for a harbor of refuge at Ludington, Mich.; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

COMMITTEE APPOINTMENT.

The SPEAKER announced the appointment of Mr. THOMAS WILLIAMS, of Alabama, in place of Mr. Shelley, as a member of the Select Committee on Ventilation and Acoustics.

COLUMBIAN INSTITUTION FOR DEAF AND DUMB.

The SPEAKER also announced the appointment, under statutory provision, of Mr. TUCKER and Mr. RYAN to fill vacancies in the offices of directors on the part of the House of Representatives of the Columbian Institution for the Deaf and Dumb.

LEAVE OF ABSENCE.

Mr. SUMNER, of California, by unanimous consent, obtained leave of absence until Monday next, on account of important business.

ORDER OF BUSINESS.

Mr. HOLMAN. I call for the regular order.

The SPEAKER. The gentleman from Indiana calls for the regular order, which, this being Friday, is the call of committees for reports of a private nature.

Mr. HUTCHINS. I move to dispense with that order for the present. If this motion be adopted I shall move to go into the Committee of the Whole on the bill making appropriations for the naval service for the fiscal year which will expire the 1st of next July. I need not state to the House that the appropriations for the naval service expired on the 1st of the present month, and the Naval Department to-day is unable to expend a dollar for any purpose. This bill, I apprehend, will take but a very few moments for its consideration, and I hope there will be no objection to my motion.

Mr. McMILLIN. I will ask the indulgence of the House to say in response to the gentleman from New York [Mr. HUTCHINS] that during this session no part of any private bill day has been devoted to the consideration of private bills. There are hundreds of reports—

Mr. HUTCHINS. The gentleman will allow me to make a suggestion. I appreciate his objection, and under the circumstances of the case I will ask that unanimous consent be given to proceed with private business to-morrow, devoting that day to this business if the order of

private business should be dispensed with to-day. I think there will be no objection to that.

Mr. McMILLIN. I believe it is indicated that one gentleman will object.

Mr. HUTCHINS. No; there is no objection.

Mr. McMILLIN. I have made a similar arrangement once or twice before, and it has come to naught. My only desire is to obtain consideration of these private measures. I think we ought to consider them. The Appropriations Committee can occupy to-morrow as well as they can to-day. I fear that if private business be dispensed with to-day we may have an adjournment over or some other difficulty, as we have had in the past, to prevent the consideration of these private claims. There are hundreds of them upon the Calendar. Either these claimants are to have no consideration of their cases at all by this Congress, or they must have it soon. It is for this House to determine whether it will lend an ear at all to these claimants.

Mr. RANDALL. Mr. Speaker, it is desirable that the naval appropriation bill should be passed to-day. I do not think it will occupy half an hour—certainly not an hour. The bill represents the unanimous judgment of the Committee on Appropriations, so far as I am able to learn. For one I shall be glad if the time taken from the consideration of private business to-day by reason of the consideration of the naval bill be given to the Private Calendar to-morrow. There will not, I think, be an adjournment over, because the consular and diplomatic appropriation bill is now ready to be called up.

Mr. McMILLIN. I will ask the gentleman from Pennsylvania whether the bill he desires to bring up is not the bill making appropriations for the Navy for the residue of the fiscal year?

Mr. RANDALL. Yes, sir.

Mr. McMILLIN. Have we not already pending in the Senate two bills making such appropriations?

Mr. RANDALL. There are three.

Mr. McMILLIN. And now we are to have a quartet, it seems.

Mr. REED. They want to make the appropriations in slices.

Mr. RANDALL. We think that the bill now presented as a new measure in a spirit of harmony, and in order to bring about co-operation between the two Houses, will meet the concurrence of the Senate; at least we hope so.

The SPEAKER. The Chair understood the gentleman from New York [Mr. HUTCHINS] to ask the postponement of private business for the purpose merely of considering and passing the appropriation bill. The Chair did not understand that the gentleman's motion sought to dispense entirely with the consideration of private business to-day.

Mr. HUTCHINS. That was not my intention.

The SPEAKER. The Chair so understood.

Mr. McMILLIN. I do not like to be unreasonable in this matter, but it seems to me that this appropriation bill could as well go over until to-morrow for consideration.

Mr. RANDALL. The idea was to have it passed to-day so as to go over to the Senate, where it could be passed to-morrow; otherwise it will have to go over until Monday next.

Mr. McMILLIN. If the House is willing to give unanimous consent and will agree also to substitute to-morrow for to-day for the consideration of business of the Private Calendar, with the further understanding that there shall be a session to-morrow, I do not feel disposed to interpose further objection to the consideration of the appropriation bill suggested by the gentlemen from New York; but I give notice, Mr. Speaker, that I shall hereafter insist that at least one day in the week shall be devoted, as the rules have provided, for the consideration of business of the Private Calendar.

Mr. STOCKSLAGER. I give notice, Mr. Speaker, that I shall object to any such arrangement. I am chairman of a committee which has had no proper consideration for the business which has been reported from it.

Mr. McMILLIN. Very well then; I shall insist on going on with the private business, which under the rules has been set apart for this day, and then will leave the matter to the determination of the best judgment of the House.

Mr. HUTCHINS. This bill will take but little time.

Mr. McMILLIN. But the gentleman from New York forgets that at 5 o'clock we take a recess until 8 this evening for the consideration of pension bills.

Mr. HUTCHINS. The time consumed in this discussion would have sufficed to have disposed of this naval appropriation bill.

The SPEAKER. Objection having been made, there is nothing before the House.

Mr. HUTCHINS. I move to dispense with the private business for to-day, giving notice that it is my intention to call up the naval appropriation bill.

Mr. McMILLIN. The motion to dispense with the morning hour will require a vote of two-thirds?

The SPEAKER. It will.

The House divided; and there were—ayes 67, noes 80.

So the motion was disagreed to.

Mr. HUTCHINS. I will not call for tellers, but will give notice, Mr. Speaker, that to-morrow, immediately after the reading of the Journal,

I shall ask the House to proceed to the consideration of the naval appropriation bill.

The SPEAKER. The regular order having been called for, committees will now be called for reports of a private nature.

NATIONAL BANK, BLOOMINGTON, ILL.

Mr. ADAMS, of Illinois, reported back with amendments the bill (H. R. 7768) to authorize the National Bank of Bloomington, Ill., to change its name to the First National Bank of Bloomington, Ill.; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying Senate report, ordered to be printed.

RICHARD C. RIDGWAY.

Mr. HERBERT, from the Committee on Ways and Means, reported back, as a substitute for H. R. 4598, a bill (H. R. 7875) for the relief of Richard C. Ridgway and others; which was read a first and second time, and referred to the Committee of the Whole House on the Private Calendar.

SAM C. REID.

Mr. CLEMENTS, from the Committee on Foreign Affairs, reported back adversely the joint resolution (H. Res. 76) to authorize the Secretary of State to reimburse Sam C. Reid for certain expenditures; which was laid on the table, and the accompanying report ordered to be printed.

WILLIAM H. RANDLE.

Mr. TAYLOR, of Tennessee, from the Committee on the Post-Office and Post-Roads, reported back the bill (H. R. 6836) for the relief of William H. Randle; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELIZABETH C. CREIGHTON.

Mr. BAGLEY, from the Committee on Invalid Pensions, reported back the bill (H. R. 5086) for the relief of Elizabeth C. Creighton; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EDWARD P. QUINN.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back with an amendment the bill (H. R. 7732) granting increase of pension to Edward P. Quinn; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PARTEN H. MOREY.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back with an amendment the bill (H. R. 7728) for the relief of Parten H. Morey; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LOUIS B. SMITH.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back with an amendment the bill (H. R. 7731) granting a pension to Louis B. Smith; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

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

- A bill (H. R. 7727) for the relief of Sally C. Mulligan;
- A bill (H. R. 7639) granting an increase of pension to John Kimmerling;
- A bill (H. R. 5988) for the relief of Hamilton Boughton;
- A bill (H. R. 6932) for the relief of Horace H. Burbank;
- A bill (H. R. 7103) for the relief of Francis Daniels;
- A bill (H. R. 6815) to restate the pension of Philo Beardsley;
- A bill (H. R. 7339) granting a pension to Newton O. Baker;
- A bill (H. R. 7636) for the relief of S. S. Eighthy;
- A bill (H. R. 5788) for the relief of Elizabeth C. Deutscher;
- A bill (H. R. 6900) for the relief of Daniel M. Dill;
- A bill (H. R. 5984) granting a pension to Mary A. Samuels;
- A bill (H. R. 7341) granting a pension to Luther Spencer;
- A bill (H. R. 7335) for the relief of Nicholas I. Campbell;
- A bill (H. R. 6972) for the relief of George H. Lawrence;
- A bill (H. R. 1096) granting a pension to Mary Abbott, widow of William Abbott;
- A bill (H. R. 6807) for the relief of Margaret Regan;
- A bill (H. R. 7733) for the relief of Robert Nelson;
- A bill (H. R. 7257) granting a pension to William F. Randolph;
- A bill (H. R. 7199) for the relief of the heirs of Maj. Andrew J. Grover, deceased;
- A bill (H. R. 7332) for the relief of Jeanie H. Griffin; and
- A bill (H. R. 3735) granting a pension to Mary A. Grennon.

SYLVESTER GREENOUGH.

Mr. HOLMES, from the Committee on Invalid Pensions, reported back the bill (H. R. 7434) granting a pension to Sylvester Greenough; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

STEPHEN SAUER.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with amendments the bill (H. R. 7417) for the relief of Stephen Sauer; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ANTHONY BEYER.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with amendments the bill (H. R. 7092) for the relief of Anthony Beyer; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SEBERT TONY.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back the bill (H. R. 7447) granting a pension to Sebert Tony; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARIA SPELLEN.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back the bill (H. R. 7418) for the relief of Maria Spellen; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN OTIS.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with amendments the bill (H. R. 6882) granting a pension to John Otis; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHANGE OF REFERENCE OF A BILL.

On motion of Mr. HOLMES, by unanimous consent, the Committee on Invalid Pensions was discharged from the further consideration of the bill (H. R. 2005) granting a pension to Samuel P. Glenn; and the same was referred to the Committee on Pensions.

ADVERSE REPORTS.

Mr. HOLMES, from the Committee on Invalid Pensions, also reported back with adverse recommendations bills of the following titles; which were severally ordered to be laid on the table, and the accompanying reports printed, namely:

- A bill (H. R. 1999) for the relief of Thomas Brockett;
- A bill (H. R. 7364) granting a pension to Mary A. Keime;
- A bill (H. R. 7423) for the relief of Samuel D. Harper;
- A bill (H. R. 7415) for the relief of Jabez Chamberlin;
- A bill (H. R. 7241) granting a pension to Edward Hogan, and for other purposes;
- A bill (H. R. 7416) for the relief of Helen Chabot;
- A bill (H. R. 2001) for the relief of Charles S. Moore;
- A bill (H. R. 5739) for the relief of George W. Mills;
- A bill (H. R. 7365) granting a pension to Thomas G. Allen; and
- A bill (H. R. 478) for the relief of Baldwin B. Shafer.

JOHN C. CLARK.

Mr. MORRILL, from the Committee on Invalid Pensions, reported back the bill (H. R. 3052) for the relief of John C. Clark; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORT.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back with an adverse recommendation the bill (H. R. 6166) for the relief of David Stonecypher; which was ordered to be laid on the table, and the accompanying report printed.

DANIEL S. LAY.

Mr. GEDDES, from the Committee on War Claims, reported back with amendments the bill (H. R. 740) for the relief of Daniel S. Lay; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

R. G. P. WHITE AND OTHERS.

Mr. ROGERS, of New York, from the Committee on War Claims, reported back the bill (H. R. 7274) for the relief of R. G. P. White, Peter Hanger, and L. T. Green; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. J. P. WILLIAMS.

Mr. ROGERS, of New York, from the Committee on War Claims, also reported a bill (H. R. 7876) for the relief of Mrs. J. P. Williams; which

was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. A. HENRY AND OTHERS.

Mr. ROGERS, of New York, from the Committee on War Claims, also reported a bill (H. R. 7877) for the relief of J. A. Henry and others; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. This completes the call of standing and select committees. If there be no objection, the Chair will recognize gentlemen who were not in their seats when their committees were called.

HENRIETTA H. COLE.

Mr. MITCHELL, from the Committee on Patents, reported back with amendments the bill (H. R. 4206) for the relief of Henrietta H. Cole; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. THOMAS, from the Committee on Naval Affairs, reported back with adverse recommendation bills of the following titles; which were severally ordered to be laid on the table, and the accompanying reports printed, namely:

The bill (H. R. 1787) to carry into effect the recommendation of the board of admirals convened under the joint resolution approved February 5, 1879, in the case of Commander Henry Glass, United States Navy;

The bill (H. R. 1789) to carry into effect the recommendation of the board of admirals convened under the joint resolution approved February 9, 1879, in the case of Commander Charles B. Sigbee, United States Navy; and

The bill (H. R. 1788) to carry into effect the recommendation of the board of admirals convened under the joint resolution approved February 5, 1879, in the case of Commander James H. Sands, United States Navy.

PAY OF NAVAL ACADEMY GRADUATES.

Mr. THOMAS. I also ask unanimous consent to report at this time a public bill.

There being no objection,

Mr. THOMAS, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (H. R. 7752) to equalize the pay of graduates of the Naval Academy; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

MOBILE AND OHIO RAILROAD COMPANY.

Mr. TUCKER, from the Committee on the Judiciary, reported back with a favorable recommendation the joint resolution (H. Res. 293) to provide for the settlement of the accounts of the Mobile and Ohio Railroad Company; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SURVIVORS OF JEANNETTE EXPEDITION.

Mr. MCADOO, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (S. 1039) for the relief of the survivors of the exploring steamer Jeannette and the widows and orphans of those who perished in the retreat from the wreck of that vessel in the Arctic seas; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

REPORT OF COMPTROLLER OF CURRENCY.

Mr. BUCKNER, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved, That 500 additional copies of the report of the Comptroller of the Currency be printed for the use of the said Comptroller.

ALLOTMENT OF LANDS IN SEVERALTY TO INDIANS.

Mr. STEVENS. I ask unanimous consent to report a public bill from the Committee on Indian Affairs.

There being no objection,

Mr. STEVENS, from the Committee on Indian Affairs, reported back with a favorable recommendation the bill (S. 48) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

THOMAS R. MONAHAN.

Mr. CURTIN. I desire to make a privileged report from the Committee on Foreign Affairs. I am instructed by that committee to report back with a favorable recommendation the resolution which I send to the desk.

The Clerk read as follows:

Whereas it is reported that Thomas R. Monahan, an American citizen, has been arrested by officers of the Republic of Mexico, and incarcerated in a Mexican prison and denied a trial:

Resolved, That the Secretary of State be requested to communicate to this House any correspondence he may have upon the subject of said arrest and imprisonment.

The resolution was adopted.

Mr. CURTIN 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 CONGO CONFERENCE AT BERLIN.

Mr. CURTIN. I am also instructed by the Committee on Foreign Affairs to report back, with the recommendation that it be adopted, the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the President be requested to inform this House in respect to all the negotiations or arrangements (if in his opinion such information will not be incompatible with the public interests) between this Government and any other government or governments which led up to the Congo conference at Berlin, and the motives or purposes with which this Government consented to participate therein. And also that the President cause to be transmitted to this House a copy of all correspondence between this Government and other governments relating to the Congo conference, together with the names of those who have been authorized by this Government to act as its delegates or plenipotentiaries thereat, the text of the credentials or powers given to such representatives of the United States, and a copy of all dispatches, reports, or other communications received by this Government from its representatives at the conference. And that the President, if he shall inform this House of the precise objects and purposes with which this Government was represented in the conference, will also inform the House which, if any, of those objects or purposes have been accomplished, and also whether or not any of the opinions or purposes of this Government, or its delegates or plenipotentiaries, as set forth in such conference, was resisted in the conference by any of the governments represented there; and, if so, by which of the governments, on what points, for what reasons, and with what results.

The following is the committee's report:

The Committee on Foreign Affairs, to which was referred the resolutions of Mr. HERBERT and Mr. BELMONT, calling for information concerning the participation of representatives of the Government of the United States in what is known as the Congo conference, have considered the same, and deeming the information referred to as of great importance, report back the resolution of Mr. BELMONT and recommend its passage.

The resolution was adopted.

Mr. CURTIN 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.

FRENCH AND AMERICAN CLAIMS COMMISSION.

Mr. CURTIN. I present another privileged report from the Committee on Foreign Affairs. I am directed to report back with the recommendation that it be adopted the resolution which I send to the desk.

The Clerk read as follows:

Be it resolved by the House of Representatives, That the President be, and he is hereby, requested to furnish to this House, if not incompatible with the public service, a copy of all correspondence had with the Government of France in relation to the French and American Claims Commission since the 23d day of November, 1881, the date of the first meeting of said commission, up to the present time.

Second. Also a copy of the communication or communications made by the two remaining commissioners to the Secretary of State on the resignation of Mr. L. de Geofroy, July 11, 1881, the date when he withdrew as commissioner on the part of the French Republic, and the 15th day of October following, in relation to the resignation of said commissioner; and a copy of the correspondence between the two governments relating to the same subject, and of the notice of the Government of France reappointing said commissioner.

Third. Also a statement giving the name and number of each and every claim which was withdrawn by the agent of either government after the same had been duly filed before said commission and the reasons for such withdrawal, and a copy of all correspondence between the two governments relating thereto.

Fourth. Also a copy of all reports or other communications made by the American commissioner, Hon. A. O. Aldis, to the Secretary of State relating to the business of said commission or to any matter or thing pending before said commission from the 23d day of November, 1881, to the present date.

Fifth. And also a copy of the report or other communications pertaining to the French and American Claims Commission or any matter pending therein made by Hon. George S. Boutwell, the agent and counsel for the United States; to the Secretary of State from the 23d day of November, 1881, to the present date. Also, a copy of the correspondence between the two governments relating to the recall of said Mr. L. de Geofroy, and the appointment and substitution by the Government of France of Mr. Alexis Albert Lafaive as commissioner, on or about May 22, 1883.

The resolution was adopted.

Mr. CURTIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CURTIN. I am also instructed by the Committee on Foreign Affairs to report back with the recommendation that it be adopted the resolution which I send to the desk.

The Clerk read as follows:

Whereas this House, by resolution of the 7th day of June, 1884, requested the Secretary of State to inform this House of the mode and manner, in detail, of the expenditure of the amounts appropriated by Congress for the expenses of the French and American Claims Commission, stating when, where, to what persons, and for what purposes the moneys so appropriated had been paid, and also what amounts had been paid by the French Government for the expenses of said commission; and

Whereas on the 25th day of June, 1884, there was laid before this House a mes-

sage from the President of the United States, transmitting a report from the Secretary of State inclosing a statement of the expenditures of said commission under general headings, without stating the details of said expenditures and without any statement as to the times when, places where, and persons to whom the moneys appropriated had been paid, as was required by the said resolution: Therefore,

Be it resolved, That the Secretary of State be directed to inform this House of the mode and manner, in full detail, of the expenditure of the sums, amounting in all to \$325,000, appropriated by Congress for the expenses of said French and American Claims Commission, stating specifically when, where, to what persons, and for what purposes the moneys so appropriated have been paid, giving in each case the date and amount of the payment, the name of the person to whom such amount was paid, and the object for which the payment was made; and also whether the officers of said commission, or any of them, continued in the exercise of their functions after the date fixed by treaty for the conclusion of such commission, and of the labors thereof; and, if so, how long and by what authority of law they so continued, what services they performed, and what payments were made them for the same.

The resolution was adopted.

Mr. CURTIN 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. McMILLIN. I move that the House resolve itself into Committee of the Whole House for the purpose of considering bills on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. COX, of New York, in the chair.

Mr. McMILLIN. Mr. Chairman, if there be no objection, I desire that we begin, on page 28 of the Calendar, with the bill (H. R. 4679) for the relief of Sarah E. Webster.

Mr. HOLMAN. I wish to inquire whether that is the first bill in order.

Mr. McMILLIN. I desire that the bills standing before this on the Calendar be passed over informally for various reasons—absence of members interested or on similar grounds.

The CHAIRMAN. Is there objection to taking up first for consideration the bill indicated by the gentleman from Tennessee [Mr. McMILLIN]?

There was no objection.

SARAH E. WEBSTER.

The Committee of the Whole House on the Private Calendar proceeded accordingly to the consideration of the bill (H. R. 4679) for the relief of Sarah E. Webster, administratrix.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Sarah E. Webster, of the city of Buffalo, N. Y., administratrix, &c., of Isaac A. Verplank, deceased, late a judge of the superior court of Buffalo, out of any money in the Treasury not otherwise appropriated, the sum of money which was assessed as the income tax and was collected from and paid by said Isaac A. Verplank, now deceased, to the Government of the United States, upon his salary as a judge of the superior court of Buffalo, N. Y., such tax having been declared unconstitutional by the Supreme Court.

Mr. HOLMAN. For the purpose of avoiding interruption of the current business, I suggest that the report in each case be read without it being particularly called for.

The CHAIRMAN. The gentleman from Indiana calls for the reading of the report in this case.

Mr. HOLMAN. I was suggesting the propriety of having the report read in all cases without a special call being made for the reading.

Mr. McMILLIN. Some of these reports are very long, and time might be saved by a statement of the case in lieu of the reading of the report.

Mr. HOLMAN. In such cases, if it be desired, the reading can be specially waived.

The CHAIRMAN. The gentleman from Indiana calls for the reading of this report.

The Clerk read as follows:

Mr. TUCKER, from the Committee on the Judiciary, submitted the following report, to accompany bill H. R. 4679:

The Committee on the Judiciary, to whom has been referred H. R. 1038, respectfully report:

It appears that under the law of the United States assessing a tax upon incomes the tax was assessed on the income of Isaac A. Verplank arising out of his salary as a judge of the State of New York. The tax was paid.

After the payment the Supreme Court of the United States, in the case of Collector vs. Day (11 Wallace, 113), decided such tax upon the salary of a judge of a State to be unconstitutional. The tax was therefore unconstitutionally exacted from a citizen, and should be refunded.

The committee therefore report a substitute for the bill referred authorizing and directing the Secretary of the Treasury to refund so much to the administratrix of said Verplank as shall appear to have been paid upon an assessment of the income tax upon his salary as a judge of the State of New York.

All of which is respectfully submitted.

Mr. HOLMAN. I am very reluctant to interrupt the progress of business on this Calendar; but I wish to call the attention of the gentleman from Virginia [Mr. TUCKER], who I believe reported the bill, to two considerations which the case suggests. In the first place, it does not appear from this report that at the time of the payment of this money any objection was made to the payment. In other words, there is presented here at best but an equitable claim, not a legal one. Even if the Government of the United States were subject without special

authority to be sued, or if this citizen had authority of law to go into the Federal courts with his claim, the action, as my friend from Virginia is well aware, could not be maintained, as the money was not paid under such circumstances as would entitle the party to a refund.

My second suggestion is this: If I remember correctly, an act was passed a number of years ago providing for refunding, within a definite period of time, money assessed upon and collected from State officers as tax upon income. That act, I think, prescribed some period within which claims should be made, and that time, of course, has expired. I am not able at this moment to refer to that act or to state when it was enacted, how long it remained in force, and whether the expiration of the time limited by the statute was declared to constitute a complete bar. But according to my recollection there was such a statute; and if there was, does my friend from Virginia think it proper that the bar created by a Congressional enactment should be overridden in every successive case presented without any particular reason being given for it? It is to this matter that I wish to call the attention of my friend.

Mr. TUCKER rose.

Mr. HOLMAN. I wish to say, however, before my friend takes the floor, that I do not think this Government should be held responsible and necessarily bound even in equity to make an appropriation for the purpose of refunding in all cases taxes improperly paid. No government, so far as I am aware, does that. I venture to say that the government of Virginia, bound to as high a faith to its citizens as the Government of the United States to its citizens, does not under similar circumstances refund money paid by a citizen in the form of tax.

Questions of this kind are constantly springing up under the interpretation of our customs laws. The law being construed as imposing a given duty upon an article, that duty is paid; but by a subsequent decision the article is declared not subject to the payment of such duty, and the party comes to Congress asking that the money be refunded. I think that in all this class of cases the Federal Government, if it makes repayment, should do so under exactly the same conditions that a State government or an individual citizen would make repayment. Where money is paid to the Government, not under protest, but voluntarily, I do not see any reason why the time of Congress should be constantly occupied to a large extent in the consideration of measures for the refund of the money. But in this case there is the further point that there was a day in court for this claimant. I think the time fixed by a general statute for the presentation of claims of this description has elapsed; and if I am correct as to this, there is now a complete bar to this claim, and I insist that the statute should not be disturbed.

Mr. TUCKER. Mr. Chairman, I am surprised that my friend from Indiana should make any objection to the passage of this bill. I supposed that all parties are agreed that the Government ought not to collect any more from the people of the country than it needs, and I had supposed that my friend from Indiana especially would agree with me that the Government has no right to exact from a citizen what the Constitution forbids. Now, this tax was paid, if I mistake not, some time in the year 1868. At that time there had been no decision made on the question of the unconstitutionality of such a tax. It is a tax on a State officer. It had long ago been decided that no State should tax any of the State officers or any of the officers of the Federal Government. In the case of Collector vs. Day it was decided for the first time that the Federal Government should not tax any State officer, that it could not impair the functions of the State by taxing any of its instrumentalities. Now, at the time of the payment of this tax that decision had not been made. It was made in 1871. There was no day in court for the party to object or protest, and it was only after that decision that the application was made. The question for the House to decide is this, whether they will refund that money held for sixteen years; whether they will pay back the principal of the money taken without interest; whether they will refund money unconstitutionally exacted according to the decision of the Supreme Court of the United States. And that is the whole question.

Mr. HOLMAN. My friend from Virginia has not met the point which is the important one in this case, and upon which I have dwelt in the remarks submitted by me in the House.

Mr. TUCKER. So far as the protest is concerned, I understand that is only a customs regulation. I do not think there is any such provision in reference to internal-revenue taxes. But even, sir, if there were, I hold, when the question is presented where the Government has put its hands into the pockets of a citizen against the Constitution of the country, Congress is bound to refund it whether there was a protest at the time or not.

Mr. HOLMAN. My friend has not met the main objection I have raised on this bill, and that is that this claim is barred by statute.

Mr. TUCKER. There is no statute against it.

Mr. HOLMAN. The point I have raised is this: That there is now by statute a bar against the payment of any such claim, and that if it is right to open that bar as to one case it is right to open it up as to all citizens who have similar claims.

Mr. TUCKER. I think so, too.

Mr. HOLMAN. And my friend from Virginia must know there are

a number of such claims pending before the House, and have been pending for years.

Mr. TUCKER. Yes; I know that.

Mr. HOLMAN. Then if it is proper to remove the bar under the statute as to one case it is certainly only equitable and just the bar should be removed as to all other like cases. Now, my friend has protested as much as, if not more than, any other member upon this floor against class legislation.

Mr. TUCKER. Yes; against class legislation.

Mr. HOLMAN. Not special, but class legislation; that is, legislation affecting a single party and not applying to a general class of persons. If it be proper that this bill should pass removing the bar as to this one special case, then it is proper and right to remove the bar as to all the other similar cases.

I hold in my hand the statute to which I referred. It is not the statute to which I thought I was referring at the time. My impression has always been that Congress, after the court decided it could not impose an income tax on the salaries of State officers, passed an act providing for the refunding of the amounts collected, provided the claims therefor were made within a given time. I believe the time fixed was two years. I may be mistaken. The statute to which I wish to call attention now may be the one to which I have referred. It is section 3228, as follows:

All claims for the refunding of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive, or in any manner wrongfully collected, must be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrued: *Provided*, That claims which accrued prior to June 6, 1872, may be presented to the Commissioner at any time within one year from said date. But nothing in this section shall be construed to revive any right of action which was already barred by any statute on that date.

That statute of course set up a bar against all these claims some time in the year 1870. I believe that none of these assessments were made later than 1868, although I may be wrong about that. After some thirteen or fourteen years have elapsed since the statute became a bar to these claims, I submit to my friend whether it is right to remove that bar against a particular case when it stands upon the same footing as the other cases? He does not pretend to show some special reason why Congress in equity should disregard the bar of the statute; he has assigned no special reason for it, but simply states that the assessment was paid by a State officer, and the law under which that assessment was made has been declared to be unconstitutional. He gives no special reason why the limitation of the statute should be set aside. I submit, therefore, Congress should not go on year after year enacting statutes of limitation, and then in every single case, without assigning any special reason, disregard the bar of the statute. If it is to be disregarded in this case it ought to be in every other. I expected when the report was read it would assign some good reason why in this case the bar should be removed, but nothing of that kind has been presented.

Mr. TUCKER. The views of the gentleman from Indiana are very technical, to be sure. He would plead the statute of limitations against a claim made by a citizen for the refunding of an unconstitutional tax. The statute of limitations to which he refers is one in reference to applications to the Internal-Revenue Department, which must have been made within two years in order to enable the party to bring suit for recovery under that particular statute. The statute of limitations, however, according to his own statement, ran out in 1870, and before the decision was made by the Supreme Court covering the case in point. Therefore the bar of limitation does not apply in the present instance.

The decision I have before me, Mr. Chairman, is one of the most remarkable that has ever been made by the Supreme Court—a decision that was delivered with great unanimity, one judge only dissenting. The opinion delivered by Judge Nelson declares in the most unequivocal terms that it is utterly beyond the power of Congress to lay a tax upon a judicial officer of a State. This case now before us relates to a judicial officer of the eighth district of New York. It was an effort on the part of the Government to impair the power of the State to carry on its judicial functions; and now when the administrator of that officer comes and asks that this tax, unconstitutionally collected, be refunded, the Government pleads the statute of limitations. Well, that is all I have to say about it. I think that is enough. I will not plead the statute of limitations against the claim of a citizen, a claim that he makes for money wrong from him against the Constitution of the United States.

Mr. HOLMAN. I trust that I will now be indulged for a few moments.

Mr. TUCKER. By the way, my friend says that I am much opposed to class legislation, and I wish to say a word in response to that. I answer, yes, I am, where it is for the benefit of a class; but where such legislation is to relieve a class against an unconstitutional exaction I favor it.

The gentleman says why not make the bill applicable to all these classes; why not make it broader? Will he vote for the bill if I do make it broader? I ask the gentleman for an answer.

Mr. HOLMAN (from his seat). I will answer in due time.

Mr. TUCKER. Yes, sir; I hope so. I would like to have an answer.

Now, sir, I will pass any bill, I will report any bill in behalf of any citizen of this country for the refunding to him of an unconstitutional exaction; but I did not propose a general bill because there was no application for it. I only reported upon the bill which was referred to the committee.

Mr. HOLMAN. I trust I will be indulged for a few moments, because this question is not now for the first time before the House. There are thousands, I may say in bounds tens of thousands, of just such claims throughout the country, for, if I am correct in my remembrance, the assessment was made under the act of 1862, which was the act embracing the income tax, and applied to and embraced all State officers, whether judicial, legislative, or executive. Of course in a vast number of cases the amount paid under the act was small. But as a matter of course the salaries were taken only into account in making up the amount of income tax paid.

A comparatively small amount of the money thus collected has been refunded up to this time; and the great body of the claims were refunded perhaps for the reason mentioned by my friend from Virginia, that is, that the law has not been declared unconstitutional until a comparatively late date, and few claims had been presented, and if they had been the statute of two years' limitation constituted a complete bar.

This case is exactly analogous to the cotton-claims cases except in reference to its magnitude. Does my friend take the position of refunding the cotton claims? I do not understand him to occupy that position. That tax was illegally collected, as everybody knows, or as is generally understood. No law has been ever enacted to provide for its refunding, and I presume none ever will be; and yet here we are asked to take up a single case—a case selected out of the great body of men who paid the tax—and let Congress afford him relief. This I regard as certainly not the part of wisdom on the part of Congress. It is bad legislation. If there is to be legislation to affect large bodies of men let it be general in its character and not special. I do not believe that it would be a wise policy on the part of Congress now, after the lapse of fourteen years, to make provision for the refunding of this tax. I do not think that the public interests would be promoted. The tax has been paid. The objection to it is that the Constitution did not authorize Congress to levy such a tax. But if Congress attempts to correct all the mistakes which were made, and the errors committed in regard to revenue and taxation during the period of the war and afterward, your Treasury can not bear the drain, or any other treasury that we have ever had. So far as I know, the great body of persons who paid the tax did not claim this refund.

I believe there is a bill pending in the Senate to extend the bar one or two years; and if any law is to be passed upon the subject it should be some such provision as that and not a special case selected such as this from the great body of such claims.

Besides, my friend must remember that his committee did not properly have cognizance of this subject. It belongs to the Committee on Claims, not to the Committee on the Judiciary. It only went to the Judiciary Committee by a special order of the House and not under the rules of the House; and for the reason that it is a single case, a solitary exception referred to that committee, it has been taken up and reported upon, when possibly under other circumstances some general provision might have been formulated. Had this bill gone to one of the committees overburdened with business of the same character, it would not probably have been taken up and made a special exception to the mass of such cases, leaving the rest of them unacted upon to sleep the sleep that knows no waking. Let us have something like uniformity in our legislation and let us adopt wise business principles in dealing with a subject of this character.

Mr. HAMMOND. Let me ask the gentleman from Indiana, Will you vote for this bill if it is amended by making it general, so as to cover all such cases?

Mr. HOLMAN. I attempted to express the reasons why I do not think it would be to the public interest, or even to the interest of the claimants themselves, to do so.

Mr. HAMMOND. You think it honest to pay the debt, but not politic?

Mr. HOLMAN. I do not think that we can undertake to correct all the mistakes of legislation enacted under the revenue laws during the war; and I think if you attempt it by legislation you will find raids will be made on the Treasury far beyond what the benefit possibly could be to individual citizens by the refunding of amounts that would be demanded. These matters have been acquiesced in for so many years that it does not now appear to me to be the part of wisdom to open them up.

Mr. TUCKER. Only one word. My friend from Indiana has introduced a new plea, a plea in abatement—that this case ought not to have been referred to the Judiciary Committee. I will say to the gentleman as the cause is now at issue it is too late to allow the plea in abatement.

Mr. HOLMAN. I admit that.

Mr. TUCKER. The gentleman, of course, as a good lawyer, knows that. Therefore that is out of the case. I put the issue where I put it before, that no just government will hold on not only to an unjust tax but a tax which its own courts decided it had no right to exact, even

though there be a statute of limitations to protect it. And I want the gentleman to stand up here and say that he is willing to hold on to what the government had no right to exact under the Constitution, though it is proved you have it in your pocket and you have held it there all that time. And we only ask the principal, not the interest.

Mr. HOLMAN. This is not the only instance where that occurs. Will the gentleman allow me another moment?

Mr. TUCKER. I want to close the case, but I yield to the gentleman for a moment longer.

Mr. HOLMAN. The gentleman alluded to my suggestion that this case went to his committee instead of the proper committee, the Committee on Claims. I made that remark for the purpose of suggesting to my friend from Virginia that he was treating this as if it was the only claim of the kind. If it was the only one no member would occupy time in objecting to its consideration. But let me inquire of the gentleman from Tennessee [Mr. McMILLIN], the chairman of the Committee on Claims, how many of these cases are pending before his committee?

Mr. McMILLIN. I do not remember that we have had occasion to consider any of this class of claims.

Mr. TUCKER (to Mr. HOLMAN). You have had your answer.

Mr. HOLMAN. And how many are pending before the Committee on Ways and Means?

Mr. McMILLIN. I do not know about that. There may be some cases of this kind pending before the Committee on Claims. There have been nearly a thousand bills referred to that committee. We have been able to report on probably half of them—I do not remember the exact number. But I do not remember one involving this question. There is a bill pending there for returning to the States taxes collected from individuals in the States, but that is not the question involved here.

Mr. HOLMAN. No; that is not the question. It is very possible that the practice has been to refer these bills to the Committee on Ways and Means. That would seem to be the appropriate committee to consider questions growing out of the revenue. I do not at this moment see any gentleman whom I recognize as belonging to that committee. But I know from former experience on the committee of which my friend from Tennessee is chairman that a very large number of these cases have been pending for many years.

Mr. McMILLIN. My attention having been called to it, I desire to state that we have a claim of this kind in favor of a party who was at the time a resident of Louisiana, where a sum of about \$12,000 was involved. Mrs. Adelia Cheatham now, then Mrs. Acklen, paid illegally assessed taxes, and paid them under protest. She went to the Court of Claims, and the court decided she was entitled to the relief and ought to have had it. But following the advice of her attorney, probably, she had been a few days late in commencing her action. That claim we thought was eminently proper to be paid, and we have recommended the payment; and I shall be surprised if this House does not stand by the action of the committee under the circumstances. It was an illegally collected tax upon cotton, cotton that had already paid 11 per cent. taxes. Then there was an illegal tax assessed in addition to that. The Court of Claims held, I think, that the taxes ought to have been returned, but that the remedy was not sought in time, and she shows a reason for not having sought it in time.

Mr. HOLMAN. I think when it comes to be a question of bar, whether the statute of limitations shall act upon Congress or not, then it is equitable to consider the circumstances under which the claim is presented. And I have called attention to the fact that no excuse in this case is given for the failure to present it in reasonable time. If we are to enact bars to operate on our courts of justice, I insist the same bars should operate on Congress. But where a case of equity is presented, that bar should be waived.

Mr. TUCKER. I am willing to leave the issue to the jury on the plea of the statute of limitations. If the House is willing to put in what, without disrespect to my friend from Indiana, I must call the dishonest plea of the statute of limitations to the claim of a party who comes forward and says, "You have exacted a tax which your own courts declare to be unconstitutional," I am willing to leave the House to take that course.

Mr. McMILLIN. Let us have a vote on it.

Mr. HAMMOND. Mr. Chairman, before the vote is taken I desire to call the attention of the committee to the fact that recently in this House a majority of members voted in favor of the payment of untold millions to a certain numerous class of voters in this country; and to the further fact that the main objection urged to the payment of this debt to-day is that the United States Government is not able to pay what it honestly owes.

The CHAIRMAN. The question is, Shall this bill be laid aside to be reported to the House with a recommendation that it pass?

The question was decided in the affirmative; there being—ayes 99, noes 14.

Mr. HOLMAN. As a very large majority of the House has voted in favor of this measure, I will not insist on a quorum.

ORDER OF BUSINESS.

The CHAIRMAN. The Clerk will read the title of the next bill in order.

The Clerk read as follows:

A bill (H. R. 130) to confirm a certain private land claim in the Territory of New Mexico.

Mr. McMILLIN. That is one of the bills which by consent were passed over informally not to lose their place on the Calendar. There were six such bills passed over under the agreement.

The CHAIRMAN. It will require unanimous consent to pass over this bill.

Mr. McMILLIN. I make the point, Mr. Chairman, that by consent we commenced to-day with the bill just acted on, passing over informally the six preceding bills, so that we should now go forward with the other bills on the Calendar.

The CHAIRMAN. The gentleman is mistaken as to the order agreed to by the committee.

Mr. McMILLIN. That was the motion I made; the Chair may have misunderstood it.

The CHAIRMAN. The Chair put the request as to one bill only.

Mr. McMILLIN. Then I ask unanimous consent that the six bills preceding the one just acted on be laid aside informally without losing their place.

There being no objection, it was ordered accordingly.

CAMP DOUGLAS MILITARY RESERVATION.

The next business on the Private Calendar was the bill (H. R. 1782) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to relinquish and turn over to the Department of the Interior, for restoration to the public domain, such parts of what is known as the Camp Douglas military reservation, in the Territory of Utah, as are embraced in the claim of Mr. Charles Popper; the same being in accordance with the recommendations of the board of officers, comprised of I. N. Palmer, colonel Second Cavalry, president of the board; F. F. Flint, colonel Fourth Cavalry; and George O. Weber, first lieutenant Fourth Infantry, recorder, constituted for the purpose of examining the claim of the said Charles Popper, by order of Brigadier-General Crook, dated Omaha, Nebr., May 7, 1875, and approved by the Secretary of War, and described as follows, namely: The northwest quarter of the southeast quarter, and the northeast quarter of the southwest quarter, and the northwest fractional quarter of the southwest fractional quarter, and the north half of the southeast quarter of the southwest fractional quarter, and the north fractional half of the southwest fractional quarter of the southwest fractional quarter of section 33, township 1 north, range 1 east of the Salt Lake meridian, containing in all one hundred and fifty-one and eighty one-hundredths acres, more or less, and all lying within the said Camp Douglas military reservation.

Sec. 2. That the Secretary of the Interior, after said restoration, shall, at the expense of said Charles Popper, cause the lands to be surveyed and segregated from the reservation by the surveyor-general of Utah; and that at any time within ninety days after the restoration of the lands the said Charles Popper shall be permitted to make a private entry of the said lands at the rate of \$1.25 per acre; and during the ninety days no other person or persons shall be permitted to make an entry of the same, or to commence any proceedings to obtain title thereto under the homestead law or any other laws by which the lands of the United States are disposed of: *Provided*, That the money paid by Charles Popper for the survey of the land, as hereinbefore provided for, shall be deducted from the cost of the entry thereof.

Mr. DIBRELL. The report in this case is quite lengthy, and I desire to make a statement which I think may obviate the necessity for reading it. This bill was reported favorably by me in the Forty-sixth Congress and passed the House. In the Forty-fifth Congress it had passed the Senate. At the last session of the present Congress a similar bill passed the Senate, and it is now upon the Speaker's table. This man Popper had bought a head-right, and when the Camp Douglas military reservation was surveyed the survey included his head-right. He had previously expended \$15,000 or \$20,000 in making improvements with a view to establishing a dairy near Salt Lake City. Every officer who has been in command of that department, including General Sheridan and others, has recommended the passage of this bill. It has also been recommended by the Secretary of War. The measure has been unanimously reported by the Committee on Military Affairs. I presume under these circumstances the reading of the report will not be insisted upon.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported to the House with a recommendation that it do pass.

There being no objection, it was ordered accordingly.

EDWARD BYRNE.

The next business on the Private Calendar was the bill (H. R. 75) for the relief of Edward Byrne.

Mr. ROSECRANS. The gentleman [Mr. LAIRD] who, as a member of the Committee on Military Affairs, has this bill in charge is now confined to his room in consequence of a severe accident. I ask, therefore, that this bill be passed over informally without losing its place on the Calendar.

Mr. McMILLIN. I hope that will be done.

The CHAIRMAN. If there be no objection, this bill will be laid aside informally without losing its place.

There was no objection.

JOHN M. DORSEY AND WILLIAM F. SHEPARD.

The next business on the Private Calendar was the bill (H. R. 948) for the relief of John M. Dorsey and William F. Shepard.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$9,021.33 to John M. Dorsey, and the sum of \$3,746.66 to William F. Shepard, in full settlement for beef and supplies furnished certain volunteer troops by said Dorsey, Shepard, and one S. B. Wallace, while said troops were engaged in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860.

Mr. HOLMAN. I think the report in this case had better be read. The Clerk read as follows:

Mr. LORE, from the Committee on Claims, submitted the following report: This bill has been five times favorably reported in the Senate and passed the Senate three times. It has also been three times favorably reported in the House of Representatives. No adverse report has ever been made upon it.

The bill directs the payment to John M. Dorsey of \$9,021.33, and to William F. Shepard \$3,746.66, in full settlement for beef and supplies furnished the troops by Wallace, Dorsey, and Shepard in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860.

In the spring of 1860 the Piute Indians murdered several citizens in Carson Valley, and had assembled a large hostile force, threatening the various towns in that vicinity. An irregular force of the best citizens of Virginia and Carson cities was organized and proceeded against the Indians, but they were ambushed and defeated, and about sixty of their number, including Major Dunsby, their commander, and many other prominent citizens, were killed, and the others dispersed. Great alarm followed among the citizens of these and neighboring towns from attack by the hostile Indians, who had assembled in large force. The citizens were without arms or supplies. There were no troops, arms, or Government stores or supplies nearer than Salt Lake, five or six hundred miles distant. Under the circumstances the governor of California and the United States officer in command of the Department of the Pacific sent forward to Virginia City arms and ammunition in charge of proper officers, together with one company of infantry. Several hundred volunteers were organized, armed, and equipped, and placed under the command of Col. John C. Hayes, who, in conjunction with the company of United States troops, marched against the Indians, and after some severe fighting defeated them and conquered a peace.

Upon the organization of these forces they were without stores or supplies, and were unable to move without them. Colonel Hayes and the commissary of his command made contracts with Jordan & McPike to furnish beef, and with Dorsey and Shepard and S. B. Wallace to furnish and transport for the command flour, sugar, coffee, and other stores. Three vouchers were issued by the commissary of the expedition: one to S. B. Wallace for \$1,528; one to Dorsey, Wallace, and Shepard for \$5,050; and the third to the same parties for \$6,190. Wallace assigned all his interests to Dorsey in 1861 and died in 1862; and there is due said Dorsey the sum of \$9,021.33 and to said Shepard \$3,746.66. It is claimed that the prices charged were the lowest cash prices at the time and places, and the goods were furnished in good faith. The United States received the benefit of these supplies, and the Government was probably saved hundreds of thousands of dollars by the prompt and patriotic action of these claimants.

The facts are all clearly proven by the evidence of Colonel Hayes and others. On June 17, 1874, an act was approved directing the Secretary of the Treasury to pay John M. McPike the sum of \$19,473.50 for beef and supplies furnished the troops by Jordan & McPike, and this bill is for the payment of Dorsey and Shepard for the flour, coffee, bacon, and other supplies furnished by them to the same troops and at the same times as those furnished by Jordan & McPike. The claims of Dorsey and Shepard appear to be just and proper, and ought, in justice, to have been paid years ago.

The committee recommend the passage of the bill.

Mr. LORE. I move that this bill be laid aside, to be reported to the House with a favorable recommendation.

The motion was agreed to.

O. L. COCHRAN.

The next business on the Private Calendar was the bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to O. L. Cochran, out of any moneys in the Treasury not otherwise appropriated, the sum of \$422.85, collected from him by the Post-Office Department on the 26th day of November, A. D. 1867, and which amount is in excess of what he was indebted to said Department.

Mr. STEWART, of Texas. I move that this bill be laid aside to be reported to the House with a favorable recommendation.

Mr. HOLMAN. The report in this case, I believe, is short?

Mr. STEWART, of Texas. Yes, sir.

Mr. HOLMAN. I suggest it had better be read.

The Clerk read as follows:

Mr. TILLMAN, from the Committee on Claims, submitted the following report: This claim is based upon the following facts: O. L. Cochran was postmaster at Houston, Tex., in the year 1861. His account with the Government was settled in 1867, when he was found indebted to the United States in the sum of \$568.71, which he paid under protest that he was not indebted.

In this settlement he did not receive any compensation for his services as postmaster at Houston for the months of April and May, 1861, for the reason that if his returns had been rendered they were never received by the Auditor's office or by the Post-Office Department for the months named.

Subsequent to this payment under protest Cochran submitted a duplicate return as postmaster for the months of April and May, 1861, which would have reduced his indebtedness in the settlement made in 1867 from \$568.71 to \$145.86, showing an overpayment made by him of \$422.85, which is now justly due him.

All this is certified by the Auditor of the Treasury for the Post-Office Department.

Your committee, therefore, recommend the passage of the bill.

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., January 30, 1884.

SIR: In answer to your inquiry for the facts in the case of Owen L. Cochran, who was postmaster at Houston, Tex., I have the honor to submit the following statement:

A settlement was made in this office of Mr. Cochran's account in the year 1867, when he was found indebted to the United States in the sum of \$568.71, which he paid under protest that he was not indebted.

In the above settlement Mr. Cochran did not receive any compensation for his services as postmaster at Houston for the months of April and May, 1861, for

the reason that if the returns had been rendered they were never received by the Auditor's office or by the Post-Office Department for the months named.

Subsequent to this payment under protest Mr. Cochran submitted a duplicate return as postmaster for the months of April and May, 1861, which would have reduced his indebtedness in the settlement made in 1867 from \$568.71 to \$145.86, showing an overpayment made by him of \$422.85, and the sum of \$422.85 is justly due to Mr. Cochran.

Respectfully,

J. H. ELA, Auditor.

HON. CHARLES STEWART,
House of Representatives.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ALEXANDER D. SCHENCK.

The next business on the Private Calendar was the bill (H. R. 1266) for the relief of Alexander D. Schenck.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any moneys in the Treasury not otherwise appropriated, to Alexander D. Schenck, a first lieutenant in the Second Artillery, the sum of \$107.65, being the amount he has been required to deposit with the Treasurer of the United States to make good the loss of certain subsistence stores pertaining to the Commissary Department of the United States Army, and for which he was responsible, as acting commissary of subsistence at Fort Johnston, North Carolina, in the fiscal year ending June 30, 1880; said stores having been stolen or otherwise unlawfully disposed of by John V. Seyton, late a commissary-sergeant in the United States Army, without the knowledge, consent, fault, or neglect of said Schenck.

Mr. McMILLIN. I move that this bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

YOST HARBAUGH.

The next business on the Private Calendar was the bill (H. R. 4631) for the relief of Yost Harbaugh.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to Yost Harbaugh the sum of \$70, for his services as messenger in the office of the Third Auditor of the Treasury from October 10 to November 10, 1876.

Mr. McMILLIN. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

WILLIAM W. THOMAS.

The next business on the Private Calendar was the bill (H. R. 691) for the relief of William W. Thomas.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be authorized and directed to pay to William W. Thomas, of Portland, in the State of Maine, the sum of \$309 (being the amount of coupons of United States bonds lost by him, and now unpaid, namely: Coupons due December 15, 1867, of five-hundred-dollar seven-thirty notes numbered 132909, 132911, 142262, 142268, act of June 30, 1864, dated June 15, 1865; also coupons due January 15, 1868, of one-thousand-dollar seven-thirty notes numbered 24199, 24204, 39406, and 64136, act of June 30, 1864, dated July 15, 1865; and coupons due January 1, 1868, of bonds numbered 1437, 86826, and 83827, for \$1,000 each, act of July 17, 1861), upon said Thomas giving a bond of indemnity in double the amount to be paid, with sureties satisfactory to the Secretary of the Treasury.

Mr. HOLMAN. Let the report in this case be read.

The Clerk read as follows:

Mr. ELLWOOD, from the Committee on Claims, submitted the following report: Mr. W. W. Thomas was the owner of coupons of United States bonds of the value of \$309. They were due, as stated in the bill, in December, 1867, and January, 1868. In some way Mr. Thomas lost the coupons after they were severed from the bonds. The Treasury Department reports that the coupons in question have never been presented for payment. While the law allows the Department to replace lost bonds, it does not allow it to replace lost coupons.

The bill provides that Mr. Thomas shall protect the Treasury by giving a bond in double the amount to repay the sum in the improbable event of any future presentation of the coupons.

The committee recommend the passage of the bill as amended, striking out "\$450" and inserting "\$309."

Mr. McMILLIN. I move that the amendment be adopted.

The amendment was adopted.

Mr. McMILLIN. I move that the bill as amended be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to; and the bill was accordingly laid aside to be reported to the House with the recommendation that it do pass.

A. J. GUTHRIE.

The next business on the Private Calendar was the bill (H. R. 2154) for the relief of the legal representatives of A. J. Guthrie, deceased.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the legal representatives of A. J. Guthrie, deceased, of Louisville, Ky., out of any moneys in the Treasury not otherwise appropriated, the sum of \$302.20, being for services rendered and money advanced in taking care of property of the United States.

The report (by Mr. BROWN, of Pennsylvania) was read, as follows:

That said Guthrie was made custodian of certain property seized by the Government, and had possession thereof from January 16 to April 20, 1867, at the agreed price of \$2.50 per day. Upon the last-named day the movable property (consisting of whisky) was shipped from Carrollton, Ky., to Louisville, Ky., but Mr. Guthrie, under orders of the collector, continued in charge of the distillery, at the rate of \$2 per day, from April 21 to July 9, 1867. That Mr. Guthrie filed

separate bills for his service, &c., both of which were approved. The first bill was:

For 95 days' time, from January 16 to April 20, at \$2.50.....	\$237 50
For 22 whisky-barrels furnished by him, at a price agreed upon, to wit,	
\$2.75.....	60 50
Drayage and labor paid by him.....	4 20

Aggregating the sum of..... 302 20

The second bill being for the time while in charge of the distillery after the removal of the whisky, being eighty days, at \$2 per day, from April 2 to July 9, amounting to \$160.

The amount first mentioned was mislaid or lost, and the second bill was paid, as part of the costs in the case.

After finding that this first account had not been allowed by the court Mr. Guthrie placed the claim in the hands of a claim agent, as appears from affidavits filed, who soon died, leaving the claim uncollected.

The evidence of the collector, James Hudnall, United States Marshal W. A. Merriwether, and others, fully set forth the above facts, and your committee, therefore, report back the bill with the recommendation that it do pass.

On motion of Mr. McMILLIN, the bill was laid aside to be reported to the House with the recommendation that it do pass.

JOHN F. SEVERANCE.

The next business on the Private Calendar was the bill (H. R. 2268) for the relief of John F. Severance.

The bill was read, as follows:

Be it enacted, &c., That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$85, to be placed to the credit of the Post-Office Department; and the proper accounting officers of the Post-Office Department are hereby directed to credit John F. Severance, of Shelburne, Mass., in his account as postmaster with the same, it being for loss by robbery of his post-office on the night of the 19th day of June, 1878, but without fault or neglect on the part of said postmaster.

The report (by Mr. VAN ALSTYNE) was read, as follows:

The files of the House of Representatives show that this claim was investigated and reported favorably by the Committee on Claims of the Forty-sixth Congress (Report No. 913) and also by the Committee on Claims of the Forty-seventh Congress (Report No. 158). The report first mentioned embodied a statement of facts relied upon, which was adopted by the last-named committee, and was as follows:

"This is a claim for relief by the said Severance, as postmaster at Shelburne Falls, in Franklin County, in the State of Massachusetts, from loss occasioned by the robbery of his office on the night of June 19, 1878. The claimant was appointed as postmaster at Shelburne Falls, and entered upon the duties of his office March 1, 1878. On the night of June 19, between 12 and 3 o'clock, burglars forced open the windows of the office, blew open the safe with gunpowder, and carried away all the stamps therein, of the aggregate value of \$435, and all the money therein, of the value of \$100, which money had been received from the sale of stamps and postal cards and from postage. At the same time the burglars broke open the jewelry store of J. G. Brown, in the next building to the post-office, and blew open the safe therein, and rifled it of jewelry and \$375 in money, the loss of said Brown amounting in all to from \$2,000 to \$2,500. Early the next morning it was discovered that the post-office and jewelry store had been robbed. The post-office was separated by a partition from the express office, and the outer door of the express office and the partition door between that and the post-office had been forced open. The safe door was badly torn by powder and the inside door blown off. It was a fire-proof safe of the usual construction, and made by E. R. Morse, a manufacturer of good reputation. Pursuit was immediately made of the burglars. The same evening the said Brown and Mr. Bartlett overtook a man eight miles from the said village with a valise, and on asking to see it he emptied two revolvers at his pursuers, hitting Mr. Bartlett, and then ran into the woods. They followed his trail, but lost it. The next night the bridges over which he might escape were guarded and a similar man was seen on the railroad bridge near by. The patrol opened fire with revolvers, which the man returned. They fired away all their cartridges, but the man escaped into the woods. The next morning a man who lived near by found on the spot where this affray had occurred blood on the timbers and a bundle dropped on the abutments of the bridge. It contained the jewelry of the said Brown and specie belonging to him, and a package with \$13 in silver change and all the postage-stamps which the postmaster had lost. Some weeks after, an old valise was found near the supposed trail of the burglars with \$2 in pennies.

"The postmaster's account of his loss is, then, as follows:

Stamps stolen from the office.....	\$435 00
Money stolen from the office.....	100 00
Total.....	535 00
Recovered:	
Silver.....	\$13 00
Pennies.....	2 00
Stamps.....	435 00
	450 00

Making the balance lost by the postmaster..... 85 00

"Full affidavits of all the facts were represented to the committee by the claimant and by other reputable citizens who are acquainted with the circumstances of the case, and some of whom joined in the hunt for the burglars.

"A report in the said case was made by the special agent of the Post-Office Department to said Department, which report is as follows:

"BOSTON, March 5, 1879.

"SIR: I have the honor to return ordinary case No. 11381, and to inform you that after investigation I found that the office was entered by burglars on the night of June 18, 1878; that \$435 worth of stamps and \$100 of postal money was stolen; and that the day following there was found all of the stamps and \$13 of the money by the roadside, leaving a loss of \$87 to the postmaster.

"Up to this time no trace of the depredators has been found, although the town officers have been on the constant hunt and have offered a reward of \$250 for their apprehension.

"Very respectfully,

"CHARLES FIELD,

"Special Agent Post-Office Department.

"DAVID B. PARKER,

"Chief Special Agent Post-Office Department, Washington, D. C."

"The testimony satisfies the committee beyond a doubt that the claimant and the officials connected with the office have always borne the highest character, and that they used due diligence in the care of the property intrusted to their charge. They did all that any man could reasonably have been expected to do

in order to secure the property in the post-office. It is also evident from the circumstances, as reported, that everything was done that was possible to secure the burglars and the property which they had stolen, and it was owing to the diligence and perseverance of the pursuers that so large a portion of the stolen property was recovered, and the loss of the postmaster was reduced from the sum of \$535 to the sum of \$85. The committee believe that the claimant ought to be relieved of the loss, and therefore report back the accompanying bill, and recommend its passage."

Your committee find, from the testimony submitted, that the statement of facts in said report is true and correct, adopt the same as their own, concur in the conclusions therein expressed, and report the said bill back, and recommend that the same do pass.

Mr. McMILLIN. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

Mr. HOLMAN. I should like to know why recovery could not be obtained under the general law.

Mr. BROWNE, of Indiana. If I understand it, the general law does not allow a recovery for money lost.

Mr. McMILLIN. That is correct.

Mr. BROWNE, of Indiana. But only for stamps.

Now, the inquiry I desire to make of the chairman of the committee is this: Why is it when we come to legislate in general statutes we prohibit allowances covering money lost and then proceed to make them by special legislation?

Mr. McMILLIN. I know of no reason for it. I see no reason why in one case it can not be recovered as well as in any other. It was an inadvertence, perhaps, on the part of those framing the general law in leaving out this special class of claims.

Mr. BROWNE, of Indiana. No; for a reason was given by the committee why a general law was not drawn covering the loss of money. It was because it was not always possible to distinguish money which had been accumulated in due course of trade, and money which properly belonged to the Post-Office Department, and received in exchange for stamps.

Mr. McMILLIN. That difficulty, I think the gentleman will observe from the report here in this case, has been removed.

Mr. BROWNE, of Indiana. It was the policy of the Congress, then, not to allow recovery for money lost in any instance. I did not see any propriety in that legislation then, but we ought to pursue a general course in reference to these matters. A general law will be of little consequence if we are required in every case to pass a special act.

Mr. McMILLIN. If the gentleman will remember the difficulty of getting to any private bill he must admit the general law is not entirely inoperative. It was the opinion of the committee that this officer had exercised all due diligence in the custody of these funds. The safe which had been provided for the funds of the postal department was as secure as that in which he kept his own money. His personal funds and those of the Post-Office Department were kept separate, in order that there might be no confusion between the two accounts. I make this statement only to show that the character of the safe in which the public funds were kept proved that this officer had exercised due diligence, that diligence which any business man would exercise over his own funds.

Mr. BROWNE, of Indiana. I hope the gentleman will not understand me as objecting to the passage of this bill.

Mr. McMILLIN. No; I do not.

Mr. BROWNE, of Indiana. The reason why I mentioned it is this: At the time the general law was passed a bill was pending for the relief of the postmaster in my city who had lost money under circumstances similar to those in this case. His office was entered in the night-time and his safe blown open by gunpowder. He lost stamps, and also money which he had received in exchange for stamps. He pursued the burglar and captured him at very considerable expense, securing the return of most of the postage-stamps which had been stolen, but no part of the money. He was compelled under the general law after it had been passed to withdraw his claim, going to the Auditor of the Treasury for the Post-Office Department, where he recovered simply for the residue of the stamps not secured at the time of the capture of the burglar and lost every penny of the money which had been stolen. Now, I do not understand why there should be fish of one and flesh of another.

Mr. McMILLIN. Does the gentleman think this presents a meritorious case? If so, I suggest that failure of justice in a former case does not excuse us from failing to do justice in this.

Mr. TILLMAN. Mr. Chairman, the United States Government does not want its faithful officers to lose money in the discharge of their duties where everything has been done that can reasonably be required of a functionary to protect the trusts confided to his charge. Now, sir, from the very foundation of the Government down to the present hour just such claims as the one we are considering have been paid almost without question when they were brought to the attention of this body, each claim standing upon its individual merits and upon the facts as developed. I am surprised that the gentleman from Indiana should object to the passage of this bill. Surely he is not in favor of making a public official work for nothing and pay for the privilege of doing it.

Congress, when it framed a general law for making good all losses by postmasters, where the loss occurred without fault of their own, in omitting to provide for the reimbursement of money losses, did not intend to deny all relief.

If such had been the case it would force postmasters not only to take extraordinary precautions in the care of public property, but would compel them to run extraordinary risks; in fact, to run greater risks than any other class of officers under the Government.

In excluding money losses from adjustment at the Post-Office Department the purpose was to prevent either fraud or collusion by postmasters or Department officials. A second reason for forcing postmasters to come to Congress for recovery of money losses was to compel scrutiny of all the facts and require the claimant to show that he had exercised due diligence and done his whole duty.

I submit, sir, that this is a meritorious claim. The case has been thoroughly inquired into and unanimously reported by the committee, and it ought to be passed by this House as hundreds of similar claims have been passed in the history of the Government.

Mr. BROWNE, of Indiana. Mr. Chairman, I wish to state again that I have not objected to the passage of this bill. I believe it ought to pass. The reason I referred to the matter at all was in order to bring to the attention of Congress some recollection of the character of legislation in which we sometimes indulge. I assert that at the time the general law was passed the question of excluding from its operation money losses by postmasters was to prevent frauds against the Government. It was the policy of Congress at that time to prohibit the allowance of money losses. That reason for adopting such a policy was then clearly stated, and the provision seemed to have been adopted almost unanimously. I refer to it, as I stated a moment ago, because it applies directly to a case affecting one of my immediate constituents.

It is true he may now come into the Congress, perhaps, and secure a favorable report on a bill allowing him all the balance of his loss; but every man of experience in legislative matters knows that he would rather put his hand in his pocket and reimburse a constituent out of his own funds to the extent of a hundred or two dollars than to attempt to take upon himself the burden of the passage of a special bill for his relief through Congress, where every Representative is peculiarly the guardian of the national Treasury, and where, under our peculiar system of rules, any cautious gentleman, by the interposition of a single objection, may prevent the doing of justice to a private citizen. The manner in which we reach the consideration of these private claims would be disreputable if indulged in by any other body of less prominence than the American Congress. If we were to treat our neighbors in our dealings with them as citizens as the Government treats those to whom it becomes indebted, it is doubtful whether one of us, after a year or two, would be able to secure credit for a pound of soap at a corner grocery. That is all I desire to say.

Mr. McMILLIN. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

PAY OF CERTAIN OFFICERS.

The next business on the Private Calendar was the bill (H. R. 468) to pay certain officers of the Army for services actually rendered during the late war.

Mr. McMILLIN. Mr. Chairman, this bill is a general bill in its nature. There has been already a similar bill passed by the House, as I am informed by the Chairman of the Committee on War Claims. I therefore move that this bill be reported back to the House with the recommendation that it lie on the table.

The motion was agreed to.

CITIZENS OF MARION COUNTY, TENNESSEE.

The next business on the Private Calendar was the bill (H. R. 4684) for the relief of certain citizens of Marion County, Tennessee, reported by Mr. GEDDES from the Committee on War Claims.

The bill was read, as follows:

Be it enacted, &c., That the claims of certain citizens of Marion County, Tennessee, for quartermaster's stores and commissary supplies alleged to have been taken from them by United States troops during the late war, and known as claims filed before the "Jasper board," so called, be, and they are hereby, referred the Quartermaster-General of the United States Army, who shall have full jurisdiction to examine and consider said claims, and make report thereon to Congress as in cases provided for in the second and third sections of the act to restrict the jurisdiction of the Court of Claims, &c., approved July 4, 1864.

Mr. DIBRELL. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

ELIZABETH CARSON.

The next business on the Private Calendar was the bill (S. 12) for the relief of Elizabeth Carson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury of the United States, out of any money in the Treasury not otherwise appropriated do pay to Elizabeth Carson, of Bourbon County, Kentucky, the sum of \$2,630.50, in full satisfaction for subsistence, use of jail, fuel, fire, care and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States in the years 1862, 1863, 1864, and 1865.

The report (by Mr. GEDDES) was read, as follows:

The Committee on War Claims, to whom was referred the bill (S. 12) for the relief of Elizabeth Carson, submit the following report:
It is alleged that in the years 1862, 1863, 1864, and 1865 the petitioner furnished

subsistence, fuel, fires, &c., to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by order of the military authorities of the United States. Claim stated at \$4,618.70.

The claimant made no complaint to the War Department, and the very statement of her case is vague and uncertain, and the proof submitted would not warrant the committee in passing it.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith an amendment, in the nature of a substitute for Senate bill, conferring power upon the Secretary of War to have the case investigated through the Quartermaster's Department, and to report the result, with his recommendation thereon, to Congress for its action in the premises.

Mr. GEDDES. I move that the bill be laid aside to be reported favorably to the House.

The CHAIRMAN. The Clerk informs the Chair that the substitute has not been sent to the desk.

Mr. McMILLIN. Do I understand that there is no substitute accompanying the bill?

The CHAIRMAN. There is no substitute on file at the desk.

Mr. McMILLIN. I suggest to the gentleman from Ohio [Mr. GEDDES] the propriety, in the absence of the substitute, of passing over this bill informally.

Mr. GEDDES. I think the substitute will be found in the papers.

The CHAIRMAN. The Chair has sent to the file-room to ascertain if a substitute be pending or not.

Mr. GEDDES. I ask that for the present the case be passed over informally.

There was no objection.

NICHOLAS J. BIGLEY.

The next business on the Private Calendar was the bill (H. R. 1347) for the relief of Capt. Nicholas J. Bigley.

The bill was read, as follows:

Be it enacted, &c., That the sum of ——— dollars be, and the same is hereby, appropriated, out of the funds in the Treasury not otherwise appropriated, to pay Capt. Nicholas J. Bigley for the value of the steamer Hercules and tow of coal, destroyed at Memphis, Tenn., in the month of February, 1863.

The report (by Mr. GEDDES) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 1347) for the relief of Capt. Nicholas S. Bigley, submit the following report:

The claimant in this case asks compensation for the alleged price and value of the following property destroyed during the late war: Four barge-loads of coal, aggregating 70,638 bushels, at 30 cents per bushel, \$21,211.40; the value of the steam towboat Hercules, \$25,000; total, \$46,211.40.

This case is somewhat exceptional in not exciting much doubt or uncertainty as to the facts of the case. The evidence is very full, but not materially conflicting. The claimant has presented his case supported in all its important points by the most satisfactory testimony. The questions to be decided are therefore less difficult.

1. The loyalty of the claimant is clearly established.
2. His ownership of the property when destroyed and of the claim at this time can not be questioned.
3. The value of the property and the extent of the claimant's loss at the time it occurred must be conceded.
4. The remaining question is, whether, admitting the facts claimed, the Government is under any legal or equitable obligation to remunerate him for the loss.

A very brief review of the facts will be necessary in order to present the questions on which the right to compensation depends.

In the month of January, 1863, the United States military authorities occupied Memphis, Tenn., and, being in need of supplies for the Army, offered extraordinary inducements to parties who were willing to engage in such hazardous enterprises. At that time the quartermaster of the Army at that city sent the following order by telegraph:

DEPARTMENT QUARTERMASTER'S OFFICE,
Memphis, January 24, 1863.

E. R. BLASDEL, Esq.:

Furnish to this department 75,000 to 100,000 bushels of Youghiogheny coal; also 2,000 tons of hay, for which a good market price will be paid; coal at 30 cents per bushel, and hay at \$27.50 per ton.

A. R. EDDY,
Per DAN. W. SENBE,
Chief Clerk.

This order by telegraph addressed to Mr. Blasdel was received by him. He at the time resided at Lawrenceburg, Ind., a point on the Ohio River 130 miles above the city of Louisville, and he was at the time engaged in the produce business.

The claimant then resided in Pittsburgh, Pa. It does not appear, nor is it material, where Mr. Blasdel met claimant and delivered to him the telegraphic order.

There is no evidence tending to show that either Mr. Blasdel or claimant answered the telegram accepting the proposition made in it.

The military authorities at Memphis had no notice that this particular order would be complied with. Claimant appears to have relied on the well-known necessities of Government for such supplies at that time and place, or felt unwilling to incur the absolute obligation to deliver under the circumstances. The proof is clear that he fully realized the risks involved in the undertaking. He had before frequently undertaken such ventures that proved successful and profitable. He was engaged in a business of the most hazardous character, and voluntarily assumed the responsibility. He entered upon the performance of it without notice that he would perform it, and without demanding protection. Tempted doubtless by the prices offered and the profits of a successful voyage, he engaged in it.

The evidence clearly establishes the fact that claimant started on the expedition with about 100,000 bushels of coal of the description designated in the order mentioned, which was carried in six coal-boats towed by the steamer Hercules, Capt. Thomas McCloskey being in command. The claimant accompanied the expedition in person. They started down the river early in the month of February, 1863. They met with no serious obstacles until Memphis was reached. Claimant, in his affidavit in reference to the trip, among other things, says:

"That he hastened to Memphis with the towboat Hercules and seven full boats, containing about 100,000 bushels of coal, knowing the Government was much in

need of coal at that time; that fearing an attack from guerrillas, he made an application to the commanding officer at Cairo for a convoy, which was refused, and he was assured by that officer that there was no danger."

He then proceeded to Memphis, and makes the following statement in his affidavit as to the condition of things found to exist there and the reason for not landing at Memphis:

"That said steamer arrived off Memphis, Tenn., at 8 o'clock and 30 minutes on the morning of 18th of February, 1863. There was a heavy, dense fog prevailing at the time the steamer arrived at said point; the fog was so heavy and dense we could not see the Memphis shore. Owing to the circumstances by which we were surrounded at the time it was, after consultation together, deemed imprudent and unsafe by the captain and pilots of the vessel to attempt to land the vessel and tow at the Memphis wharf for fear of sinking some of the vessels and craft lying at and alongside that wharf."

Captain McCloskey, of the tugboat, in his affidavit, states the circumstances at Memphis on their arrival there:

"That when landing at Memphis, and just above the city, a heavy fog set in, and the current being strong and the wharf somewhat crowded with other craft, the officers of the boat deemed it unsafe just then to attempt a landing at the city wharf, and landed temporarily on the Arkansas side, nearly opposite the city. Soon after the steamer was attacked by a guerrilla band and taken possession of, burned, and destroyed."

One of the crew was killed; claimant, captain, and the rest taken prisoners. The next day they were released and returned to the landing about 1 o'clock, and found six of the coal-boats still afloat. They procured another towboat and succeeded in delivering three of the coal-barges, but that night the remaining three coal-barges were destroyed. The Government paid for the coal delivered at the price designated in the order mentioned. It is clearly established by the evidence in this case that no Government officer knew when this party would arrive with their supplies. No effort was made to advise the military authorities at Memphis of the approach of this party with coal. No one, on behalf of the Government, was consulted as to the propriety of landing, temporarily, on the Arkansas side of the river. The place where they landed was not considered by claimant as the place of delivery, but only a temporary landing until a more convenient time.

It is insisted on behalf of claimant that his acts constituted a delivery, and the affidavits of several rivermen engaged in the trade at that time have been submitted. They do not strengthen the claimant's case. One of them, Holmes Harger, says:

"As a riverman, knowing the usages and customs of the trade, I would say that if this coal in tow of the steamer Hercules had been sunk or lost in transit by reason of the dangers of navigation in storms, striking on a bar in the river or a snag, or striking against the shore, or by other incidents of navigation, then in that case the loss would undoubtedly have been Mr. Bigley's."

Here certainly there was no delivery, or what should in law be considered equivalent to delivery. The order was dated at Memphis. The military authorities were stationed at Memphis. Claimant regarded Memphis as the place of delivery, and would have landed there for that purpose if the obstacles mentioned had not intervened. The Government was evidently prepared to, and ready to, receive the coal at the time, for when notified of the landing of the three barges of coal at Memphis the quartermaster received the same and paid for it.

Thus was there no delivery of this property to the Government. It was destroyed when in the possession and under the exclusive control of the claimant. He followed his own judgment and the judgment of his men as to the safety of the course adopted.

In the absence of any legal liability of the Government, your committee do not consider the facts as warranting any such generosity. The loss was heavy, it is true. It was a great misfortune. But losses, hardships, and misfortunes occur in peace and in war. The loss of life and limb, health and property, and other innumerable sacrifices entailed by the war can not be compensated for in money. Many of such losses and sacrifices resulted from pure patriotism, without hope of pecuniary reward, and the sufferers come to Congress asking for relief. Such cases often appeal with great force to our sympathy.

But this case is not of that character. There is no equitable consideration calling upon the Government to make compensation. It is a case of a contractor seeking to make money during the war. He was availing himself of the opportunities afforded by the necessities of the Government. He was influenced by the high prices paid for such services. It was fortunate for the Government that men of capital were found ready to risk their property in such hazardous enterprises. If he had been continuously successful throughout the war, and a great fortune had been accumulated by him, he would hardly appreciate the force of an argument that he was under a moral and equitable obligation to the Government to contribute liberally of his gain to relieve the country of the burden imposed by the war. He would doubtless then feel that he took his chances, made money, and, as it was a matter of fair contract in open market, he should be allowed to keep and enjoy his profits.

This claim has in years past been fully considered by the Government and payment refused. In a report of the War Department in 1870 the following statement appears:

"Reports adverse to the allowance of this claim have been made by the Quartermaster-General, the Judge-Advocate-General, and the Third Auditor, the latter report being concurred in by the Second Comptroller. The ground of the rejection is that the property was not delivered to the Government, but was destroyed while it was in the ownership and possession of the claimant."

Adverse report was also submitted by the Committee on War Claims to the Forty-eighth Congress.

In view of all the facts of this case and the considerations bearing upon it your committee feel called upon to report adversely to the allowance of the claim, and therefore recommend that it lie upon the table, and that the report be printed.

Mr. ROWELL. I call for the reading of the minority report.

The views of the minority were read, as follows:

This claim was before the last Congress, and was favorably reported from the Senate Committee on Claims for the value of the coal destroyed, \$21,211.40, and the bill, as thus reported, passed the Senate. A similar bill was reported favorably from the House Committee on War Claims, but for want of time failed of consideration.

In reporting this claim to the last Congress the two committees stated the facts to be as follows:

"It appears from the evidence in this case that in the winter of 1862 and 1863 about 45,000 troops were stationed at Memphis, Tenn., under the command of General Hurlbut, and that there was a great scarcity of and demand for coal, with which to move the immense quantities of supply stores that were required to supply the Army of the Tennessee, and in order to supply this demand Capt. A. R. Eddy, post-quartermaster at Memphis, sent the following telegram to one E. S. Blasdel:

DEPOT QUARTERMASTER'S OFFICE,
Memphis, January 24, 1863.

E. S. BLASDEL, Esq.:

Furnish to this depot from (75,000) seventy-five thousand to one hundred thousand (100,000) bushels of Youghiogheny coal; also (2,000) two thousand tons of hay, for which a good market price will be paid.

Coal at 30 cents per bushel.

Hay at 27½ dollars per ton.

A. R. EDDY,
Per DAN. W. SENBE, Chief Clerk.

Upon the receipt of this telegram Mr. Blasdel immediately transferred the order to the claimant, N. J. Bigley, who was then furnishing large quantities of Youghiogheny coal to the Government at other points, who accepted the order and at once undertook to fill it. He had seven barges gauged by the proper officers, and forwarded his certificates to the post-quartermaster at Memphis, and notified him that he was en route with the coal, the seven barges being towed by the towboat Hercules to Memphis, reaching that point on the morning of February 17, 1863.

On reaching Memphis claimant notified General McPherson, then in command, that he had delivered the coal as per contract, but owing to the crowded condition of the wharves he was directed to land his towboat and barges on the opposite (Arkansas) shore, which order he obeyed. Claimant states that he was advised that a guard was detailed to protect the boat and coal, but they never reported for duty. Soon after the boat landed it was attacked by the guerrillas and burned, and four of the barges and their contents were sunk. The other three were paid for by the depot quartermaster at the contract price and according to the certificate of the gaugers which had been previously forwarded to him. Claimant presented his bill to the depot quartermaster for the other four barges and contents and for the value of his towboat, which had been destroyed by the neglect of the agents of the Government, but payment was refused because of a want of jurisdiction of the depot quartermaster over such claims. The claim was afterward presented to the Quartermaster-General of the United States Army for allowance and payment, and was by him rejected for the same reason, but was by him recommended to the favorable consideration and action of Congress.

Claimant now comes to Congress and asks compensation for the coal contained in the four barges that were sunk, at the contract price, and for the amounts as shown by the gauger's certificates, and for the loss of the towboat Hercules, at a price fully shown by the testimony to have been a fair and reasonable valuation. The items may be more definitely expressed as follows:

70,638 bushels of coal, at 30 cents.....	\$21,211 40
Value of towboat Hercules.....	25,000 00
	46,211 40

The evidence shows conclusively that the claimant was acting under the direct and positive orders of the agent of the Government, and that the loss of the property above mentioned was in no way chargeable to his neglect or carelessness; that the claimant had always been loyal to the Government, and had given liberally of his own private means to aid the Government in its days of sore trial and dire necessity. This claim has been considered by the Quartermaster-General, the Judge-Advocate-General, the Third Auditor, and the Second Comptroller, respectively, and by them rejected for the reason that the property "was destroyed while it was in the possession of the claimant." Your committee can not see that this should be a bar to the claimant's right to recovery, as he was acting under the special and positive orders of the Government through its recognized agents. This opinion seems to have been shown by Quartermaster-General Meigs, who, in the conclusion of his decision rejecting the claim, under date of May 11, 1869, uses these words:

"Congress alone, it seems to me, can give relief. The loss was a heavy one, and the circumstances are such as, I think, should commend the case to the favorable consideration of Congress."

In reviewing the report of the Quartermaster-General on this case the Inspector-General, Hardie, uses these words:

"The views of the Quartermaster-General are concurred in by the undersigned. The loss was heavy and the circumstances such as entitle the claimant to such favorable consideration as can legally be granted."

Judge-Advocate-General W. M. Dunn concludes his final review of the entire case, under date November 22, 1870, with these words:

"I concur in the conclusions of the reports rejecting this claim, and also in the foregoing recommendations thereof to the favorable consideration of Congress."

There is every reason to believe that while these departmental officials could not legally allow the said claim, yet they fully recognized and candidly acknowledged its justice.

Your committee are of opinion that the claimant is entitled to the relief he seeks to the extent of the value of the coal.

Your committee are of opinion that claimant should not receive payment from the Government for the towboat Hercules, by which said coal was transported, for the reason that it was a loss incident to natural risks which he assumed in delivering the coal, and for the further reason that the boat formed no part of the goods contracted for by the Government to be delivered; but your committee are clearly of opinion that claimant is entitled to recover the value of the coal destroyed, at the contract price of 30 cents per bushel, amounting to \$21,211.40, and accordingly report back said bill with this amendment, and recommend its passage.

In the Forty-seventh Congress three members of the House Committee on War Claims dissented from the report of the majority upon the ground that the coal was not delivered at the wharf at Memphis, and hence could not be held to be such a delivery as was contemplated in the order for the furnishing of the coal, and that therefore the Government was not liable for the loss.

The claimant has filed additional testimony in this Congress, in which at least eight old river men testify that they are acquainted with the coal trade and the customs governing the delivery of coal at the various landings on the Ohio and Mississippi Rivers at the time this loss was sustained, and they unanimously agree that the delivery of the coal by Captain Bigley at the point opposite the city of Memphis was a good and sufficient delivery under his contract, and that the Government did accept such deliveries as deliveries at the "Memphis depot," and that it was not customary to deliver coal at the usual wharfs, but at some convenient landing within a reasonable distance of the point where it is to be received.

The testimony all goes to show conclusively that Captain Bigley made a reasonable compliance with the contract, and that the loss is in no way chargeable to his negligence, and the officers and agents of the Government at Memphis so understood it at the time. As an evidence of this fact, they received and paid for the three barges of coal that were spared by the rebels, and received it at the landing opposite Memphis, where the entire cargo was delivered, thereby admitting that the delivery of the coal was good and sufficient under the contract.

We are of the opinion that Captain Bigley ought to recover the amount of the loss he sustained. As the claim for the recovery of the value of the steamer Hercules rests upon an entirely different basis to that for the recovery of the value of the coal delivered and destroyed, we recommend that he be paid for the 70,638 bushels of coal at 30 cents per bushel, amounting to the sum of \$21,211.40, and herewith report a bill for that amount as a substitute for H. R. 1347, and recommend that it do pass. The substitute is identical with the bill that passed the Senate in the Forty-seventh Congress and to the bill now pending in that branch of Congress.

JNO. B. STORM.
THOS. M. FERRELL.
J. H. ROWELL.
L. H. WELLER.

A bill for the relief of Nicholas J. Bigley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not other-

wise appropriated, to Nicholas J. Bigley the sum of \$21,211.40 for 70,638 bushels of coal lost at Memphis, Tenn., in the month of February, 1963.

Mr. GEDDES. I move that the bill and substitute submitted be reported to the House with the recommendation that they do lie upon the table.

Mr. ROWELL. I move to amend that motion so that the substitute reported by the minority of the committee shall be reported back to the House with the recommendation that it do pass.

The CHAIRMAN. The first question is on the motion of the gentleman from Illinois [Mr. ROWELL]. The question is, Shall the substitute be adopted?

Mr. STORM. I suppose the question is debatable.

The CHAIRMAN. It is.

MESSAGE FROM THE SENATE.

Here the committee informally rose, and Mr. NICHOLLS took the chair as Speaker *pro tempore*.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the House of the following titles, with amendments; in which the concurrence of the House was requested:

A bill (H. R. 181) to declare forfeiture of certain lands granted to aid in the construction of a railroad in Oregon; and

A bill (H. R. 4088) to incorporate the Luther Statue Association to erect and maintain a monument or statue in memory of Martin Luther in the District of Columbia.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 2379) to authorize the transfer of one of the vessels of the Greely relief expedition to the Treasury Department for a revenue-cutter, and the retention of the other two for use in the Navy; and

A bill (S. 2449) to provide for the distribution of the Statutes of the United States and the CONGRESSIONAL RECORD to designated incorporated bodies, institutions, and associations, within the several States and Territories.

The Committee of the Whole resumed its session.

NICHOLAS J. BIGLEY.

Mr. STORM. I desire to be heard upon this case. I was one of the Committee on War Claims who signed the minority report, and I desire to be heard in support of the motion of my colleague on the committee, the gentleman from Illinois [Mr. ROWELL].

There is no dispute in this case about the main facts. The whole controversy is at best about a bald technicality—a simple, sharp, legal question about what constitutes a delivery of property under the contract in this case. The facts are that the applicant in this case, Mr. Bigley, on a telegram received from the military authorities at Memphis to fulfill a large order for coal of which the Government was at that time in pressing need—in pursuance of that order loaded seven barges of coal and with a steamboat of which he was the owner commenced to take this coal down the Ohio River to Memphis, the point of shipment. There is no dispute about the quantity of coal or about the price of the coal. There is no dispute about the fact that three of the barges of coal were delivered to the Government and accepted. There is no dispute about the fact that he delivered the remaining four barges as near the point of delivery as possible, being the amount of coal for which this bill seeks to pay the claimant the sum of about \$21,000.

The facts as I recollect them, and as they are set forth in the report, are these: The claimant received this telegram, or some other gentleman received it who delivered it to Mr. Bigley for fulfillment, and he commenced to fulfill the order. He went down the river with this convoy of barges and reached a point opposite Cairo. There was a heavy fog in the river, and some report about the dangers of navigation from the presence of rebels in that neighborhood. At that place Mr. Bigley made application to an officer of the United States Government, asking him to protect his boats while going down the river. He was assured by the officer that everything was all right and there was no necessity for that. He proceeded down the river with his barges of coal, arriving at Memphis; and being informed that the wharf there—the general place of delivery—was so crowded that it was dangerous to land there, he communicated this fact to General McPherson, at that time the officer in command.

Thinking it better, in view of the crowded condition of the wharf, he landed this convoy of coal upon the opposite side of the river—upon the Arkansas shore. While there with these seven barges he was attacked by some guerrillas, who came from the Arkansas side. He was captured and taken some thirteen miles into the country; he was robbed and subjected to very brutal and cruel treatment. One of the crew was killed. Being released the next morning, and returning to his boats, Mr. Bigley discovered that the United States Government had taken three of the boats and landed them on the Memphis side of the river, and for those three boat-loads of coal he received his pay from the Government. The other four boats were destroyed and sunk in the river—became a complete loss.

These are the facts, about which I think there can be no dispute. He landed the coal as near to the place of shipment as the condition of the

wharf would allow, and I claim, as a matter of law (and this seems to be the point on which this whole question hangs), that there was a complete, absolute delivery of that property to the Government of the United States. It was a more complete delivery than that which the law says constitutes a good delivery; for, as gentlemen are aware, the mere delivery of the key of a warehouse passes the goods in it. Here was an actual taking of possession by the United States war vessel then in those waters. The United States sent a guard there, which for some unexplained reason was subsequently withdrawn. I contend, Mr. Chairman, that upon every principle of law there was a good, valid, legal, actual delivery of this property by Mr. Bigley, the claimant, to the United States, and that the Government accepted it. These facts, I say, can not be disputed.

But there are still further considerations in favor of this claim. This case was favorably considered and reported by the Senate committee in the Forty-seventh Congress, and a bill similar to this passed the Senate. It also received a favorable report in this House from a majority of the Committee on War Claims in the Forty-seventh Congress.

Since that time, Mr. Chairman, there has been additional evidence taken upon the question as to the actual delivery of this property. Some eight or nine old rivermen on that river, having knowledge of the customs concerning the delivery of coal at this very point, Memphis, and other points along the river, testify that according to the customs prevailing on that river and the circumstances in this case the delivery is a good one. Whether or not the Government actually received this coal on the Arkansas shore as a good delivery, we claim that according to the customs prevailing on that river as proved in this case there was an actual delivery of the coal at the place called for.

The telegram requested that the coal be delivered at "the military depot" at Memphis. What was that military depot? Was it simply a wharf three or four squares long, which, as the testimony in this case shows, was already crowded by other vessels, or was it the point nearest that wharf where the coal could be safely landed? It is shown by the facts in this case that the coal was landed as near the wharf as possible. The telegram did not call for the delivery of the coal at the wharf, but at this "military depot," which occupied the whole river at that point.

Now, Mr. Chairman, there is a fallacy running all the way through the report of the able chairman of the Committee on War Claims [Mr. GEDDES] in this case. I know how hard it is to oppose a report made by that gentleman or by a majority of the committee. I know how hard it always is to overcome an adverse report of the Committee on War Claims, that committee being usually very careful in its reports. Yet there runs through this whole report the remarkable fallacy of assuming—that there is not a single particle of evidence in the whole case to show—that the price offered by the Government for this coal was not the ordinary price for coal at that place, but that Mr. Bigley, the claimant, was, by reason of an extraordinary price, induced to take upon himself these risks or hazards. It is assumed that the war risks and the risks of navigation were voluntarily taken by Mr. Bigley in view of the large price the Government was offering for coal. If you strike out of the report this assumption (which is entirely without foundation in the evidence), there is nothing to support the reasoning of the majority report; and that report stands at best, as I have stated, upon a mere technicality. The price offered by the Government was the ordinary price, as any one acquainted with the price of coal at the time knows.

This man was loyal to his country and its cause in the late war. Apart from his losses in this case he suffered greatly in the loss of his property during the war. He comes here now and asks the Government to pay him for these four barges of coal which he delivered at the nearest point practicable under the circumstances. The Government had taken actual possession of three of the barges and was legally in possession of the others; and the subsequent loss of the four remaining barges must fall upon the Government.

The Quartermaster-General of the Army in passing upon this claim and officers of other Departments have said that while technically they could not allow the claim, it was a proper case for Congressional action. And Congress ought to grant this relief. We are the only tribunal in which such relief can be given; and I believe the sense of fairness and justice prevailing in this House will sustain this minority report.

I yield the remainder of my time to my colleague on the committee [Mr. ROWELL].

Mr. ROWELL. Mr. Chairman, I do not desire to detain the House with any lengthy statement, but it does seem to me that a fair consideration of the facts and law in this case will induce a unanimous vote in favor of the minority report. The mistake made by the majority of the committee is both a mistake of fact and of law. If this coal was delivered to the United States Government, then it will be admitted that it ought to pay for it. Now, under the facts in this case, I insist upon it a legal delivery was made to the United States. Under the evidence by rivermen, the coal depot at Memphis for barge-loads of coal was anywhere in the neighborhood at coal wharves where the boat could

get into shore. With a convoy and a large number of barges they could not be taken into some particular wharf, but there were three or four places in the neighborhood of Memphis where coal was wont to be landed.

When this convoy and these barges reached the neighborhood of Memphis they landed this coal at one of the coal landings and notified one of the Government officers that the coal was there. They were afterward attacked by guerrillas, and the captain, the proprietor, and the crew captured. Subsequent to the capture and before the coal-barges were destroyed the city of Memphis took possession of all these barges and placed a guard over them and continued that guard for some length of time. While the owner was a prisoner, without any orders and in violation of its duty, this guard was withdrawn, and because the guard was withdrawn the enemy's force was subsequently enabled to destroy this coal.

Now, I undertake to say in any court of law a notice of the arrival of coal at the point of destination, at the depot of Memphis, at any coal wharf recognized as a coal depot, subsequently taking possession of that coal by the forces of the United States, was a delivery. The abandonment of the coal by the same forces did not change the fact nor the law that this was an absolute delivery of the coal.

For that reason the Government of the United States owes the money for this coal.

Not speculative prices. That is a mistake. In looking at the evidence it will be ascertained that this man was not selling the Government coal at exorbitant prices. He was selling to the Government coal at the market price. He delivered the coal to the extent proposed by this substitute, and the Government has refused to pay for it. For that reason I joined in the minority report, and I hope this House will have sense of justice enough to see to it that this man is not any longer delayed in the collection of his just debt.

He lost his barges and he lost his steam convoy as well, but this report does not allow him pay for them, because he was not to deliver to the Government a steamboat, nor was he to deliver to the Government barges. It was coal he was to deliver. He took the risk of his own property, and the Government took the risk of the coal after it had been landed at the depot at Memphis, and especially after the Government forces had been put in charge of it.

Mr. GEDDES. Mr. Chairman, I feel it is not a pleasant duty or responsibility to resist any claim which makes a strong appeal to one's sympathy, but I have become so accustomed to this class of work, involving one, two, three, or five hundred millions of dollars in amount, claims pending before the War Claims Committee, where we feel uniformly compelled to report on them adversely, that I feel constrained now to resist the approval by the House of this claim. I am gratified in being able to state to any who may listen in regard to it that the facts of the case are not complicated. There is no such conflict as will cause any embarrassment of mind in regard to it. Although in our statements of it here we may not exactly agree in regard to the substance of the case, nevertheless it will be found on comparison of views of gentlemen favoring as well as those opposing the claim that we do not differ materially in regard to the facts.

Now, this claimant was a resident of Pennsylvania, and the claim would naturally arouse greater sympathy on the part of the gentlemen from Pennsylvania than on my part. It is true, the Ohio River is only between us; and finding my own sympathies were aroused, I was put more on my guard in regard to its legal and equitable merits.

This gentleman, being a citizen of Pennsylvania, at the time a man of large means, engaged extensively in river traffic during the war, making large profits, accumulating large gains, becoming immensely wealthy by fortunate ventures of this and other kinds, also took upon himself what will be manifest upon casual investigation as not only a hazardous but profitable enterprise if he won. If he failed in this, he would only lose some of the profits which he had so frequently gained in his early and fortunate adventures during the war.

Gentlemen speak of it as if a contract had been made between the officers of the Government and this claimant, and argue it as though it was simply a question of the delivery of this property.

No contract was made between any officer of the Government and this party at any time from the beginning up to the time of the loss or at any other time.

The facts of the case are briefly these: The telegram, which will be found embodied in the report, upon which this party acted, was not addressed to him at all. It is a telegram addressed to E. S. Blasdel, another man accustomed to ventures of this description, residing at another point in the North.

How this telegram came into the possession of this claimant is not disclosed in the proof; how he was induced to act upon this telegram is not disclosed in the testimony before the committee. But he had the telegram in his possession, and he purchased the coal and undertook to transmit it to the Government without notifying the Government of his intention so to do. Now, observe; the Government gives out a general notice in the form of a telegram to a particular party, and it is the most liberal view that can be taken of it that any man would have the right to act upon that. They sent the telegram to this party that they were in need of certain supplies, and that if delivered they would be paid for upon delivery. That telegram is dated at Memphis, as will be seen

by examining it. This party, the claimant in this case, obtained possession in some way of that telegram, and undertook to fill the demand referred to by it. How does he do it?

By telegraphing to any official at Memphis, any Government officer at Memphis, that he stood ready to deliver, or that he would undertake to deliver, or that he desired to perform that contract, or that they might expect him at any particular day, or at any future time? Not at all. He was so unwilling to enter into the contract in the sense of a contract that would bind him as well as the Government had he failed to meet or been unable to perform it, that he gave no information of any intention to do anything in the matter. He did not undertake to accept the proposition of the Government. It was an unaccepted proposition on the part of the officers at Memphis. But he did undertake to do something, and in that effort he met with the disaster upon which this claim is based. He starts down the river with a cargo of coal.

Mr. COSGROVE. May I ask the gentleman from Ohio a question? Mr. GEDDES. Certainly.

Mr. COSGROVE. To whom was this telegram addressed to which you have referred?

Mr. GEDDES. To E. S. Blasdel.

Mr. COSGROVE. Who is the claimant in this case?

Mr. GEDDES. He is one Nicholas J. Bigley.

Blasdel lived at Lawrenceburg, Ind., a point on the Ohio River, as gentlemen well know. Now, coming to the more important point, and the very essence, I think, of this claim, to which I will invite the closer attention of gentlemen otherwise engaged, we find that in due time this party arrived at Memphis with the coal. No military officer had any knowledge or notice of his approach. He approached and found a dense fog on the Memphis side of the river. He made no application to any military officer to take the judgment of that officer as to what action he should pursue. He consulted no man representing the Government of the United States as to what he should do in reference to the coal. He was accustomed to act on his own judgment. He was there in person, with his own officers in charge of the boats, and declined to consult any military authority of the Government as to what should be done. Finding this dense fog on the river, instead of attempting to deliver the coal at Memphis or consulting any one as to the place of delivery, in the exercise of his own judgment and choice, and to which he was fairly entitled, he shipped over to the opposite shore and there landed. There he met with guerrillas. There the misfortune came. That is what produced his loss. He was captured and some of his crew were captured with him.

Now, subsequent to that time three of those barges with the coal were delivered. How? By whom? By this claimant. He procured another boat and succeeded in delivering to the Government, and that was the first notice that any military officer at Memphis had that any coal was approaching for delivery. This claimant procured a boat and secured the delivery of three of these barges with their contents to the Government of the United States. There is no controversy as to that. The Government promptly paid for the contents of these boats and for the coal thus delivered.

Mr. BUCKNER. Will the gentleman permit me to ask him a question just there?

Mr. GEDDES. Certainly.

Mr. BUCKNER. The gentleman from Illinois [Mr. ROWELL] stated, as I understood him, that the Government sent guards across to take possession of the seven boats. Do I understand the gentleman from Ohio to say that there is no evidence of that fact?

Mr. GEDDES. I do. My claim is—and I will read as bearing upon that point the testimony of one of the officers. Here is the testimony of one that I see before me on first opening this book:

Captain McCloskey and others got the towboat Wisconsin, on the evening of the 18th, to tow over to Memphis three of the coal-boats that the Hercules had charge of. Night coming on, it was deemed unsafe for the Wisconsin to make a second trip same day, and during that night the guerrillas destroyed the remaining four coal-boats with their contents. Three coal-boats were as many as the Wisconsin could tow at once. On reflection one of the coal-boats was sunk at the time of the burning of the Hercules. Only three were carried to Memphis, and further says not.

Mr. HOPKINS. Will the gentleman permit me one question?

Mr. GEDDES. In a moment. In that same connection I will read the statement of the claimant himself in regard to the circumstances under which he landed on the opposite shore and as to why he did not land on the Memphis side. He says:

That the steamer Hercules with her tow reached Memphis on the morning of the 17th of February, 1863, and was, owing to a fog, and the crowded condition of the wharf at Memphis landing just opposite—temporarily—

"Temporarily." I emphasize that as being significant in law, in fact, and in equity. It shows the judgment of the claimant at that time right at the turning point that he had no right to deliver this coal on the shore opposite to Memphis and that the order contemplated no such thing. It shows that in his judgment he had no right to deliver this coal where he now claims it was delivered in fact and in law; because he says he moved to the opposite bank temporarily on account of the fog on the Memphis shore. And then he adds:

And directly after landing was attacked by guerrillas, and set on fire and destroyed, as detailed in the affidavits of Thomas J. Collins (Exhibit C), Mike Myers (Exhibit D), John Bigley, and Thomas McCloskey (Exhibit E).

Another of the crew says:

Immediately on reaching Memphis, Peter G. Bigley, myself, and others got a towboat, the Wisconsin, and succeeded in towing over three coal-barges, which lay near where the Hercules had been destroyed. Darkness came on, and the captain of the towboat Wisconsin refused to go over again, considering it dangerous.

Mark you, they were acting under the orders of this claimant. They were in his employment.

Mr. HOPKINS. There is the point at which I would like to ask the gentleman the question whether it is not the fact that the steamship Wisconsin was a Government boat, owned by the United States and directed by the officers of the United States Army.

Mr. GEDDES. I am not prepared to answer that question.

Mr. HOPKINS. The testimony shows it.

Mr. GEDDES. I am under the contrary impression. But whether it was or not it was procured at the instance of this party, and the delivery at that boat was not regarded as a delivery to the Government. That night the remaining three coal-barges, he says, were destroyed.

Now, it is said, testimony has been taken tending to show that a delivery on the opposite side was by rivermen regarded as a delivery at Memphis. As I have already said the circumstances of this case clearly show that under this telegram this party did not so regard his duty, but an examination of the testimony of those rivermen, I think, instead of aiding this claimant, materially damages his claim as it stood before that testimony was submitted. As an illustration of that I will read from one of the affidavits a single paragraph as showing to my mind that the evidence does not strengthen his claim. This is the affidavit of Holmes Harger:

As a riverman, knowing the usages and customs of the trade, I would say that if this coal in tow of the steamer Hercules had been sunk or lost in transit by reason of the dangers of navigation in storms, striking on a bar in the river or a snag, or striking against the shore, or by other incidents of navigation, then in that case the loss would undoubtedly have been Mr. Bigley's.

Now, here clearly the loss was the result of one of the incidents of navigation. Therefore as it strikes my mind there is but one thing that can be said in regard to this claim, and that is as to the equitable considerations on which gentlemen base their support of it. Unpleasant as the duty may be to state it, it seems to me that is a proposition easily answered.

We can not in our legislation at this day, twenty years after the close of the war, undertake to meet all the losses, compensate for all the sacrifices, make whole every man who from a patriotic sense of duty undertook to aid the Government in that hour of danger. And to select out one of this class and override thousands and tens of thousands of other claims, running up into hundreds of millions of dollars, can not secure the approval of my judgment. For of all the men who sustained losses, good though they may be, commendable as their acts were, a man of this class is to my mind the least deserving, and should be deferred until many others are compensated at the hands of a liberal Government.

No man appreciates more highly than I do the value of the services of men of wealth who stepped to the front and tendered of their means and capital during the war. But where a man goes in to make profit—not to turn over his property expecting nothing back, but always expending in the hope of greater returns—when this class of men appeal to me for sympathy, I will not say to them, what may seem harsh and unreasonable, that they are undeserving; I only say that they belong to a class whose claims can not now be met at the hands of this Government.

Mr. BROWN, of Pennsylvania. If the gentleman will allow me a moment—

Mr. GEDDES. With pleasure.

Mr. BROWN, of Pennsylvania. It seems to me that the point in this case is, whether the Government officers with a Government vessel were undertaking to take the barges across the river. On this point I think the gentleman now on the floor failed to answer the question proposed by my friend from Missouri.

Mr. GEDDES. I have before me one item of proof on that very point; and I say, on a careful investigation of all the proof in the case, it will be found that the Government assumed no responsibility as to the delivery of this property, did not undertake to accept the property. Upon this point I read from the evidence:

This affiant called upon Captain Lewis, assistant-quartermaster of transportation, for a guard to protect the three boats then remaining on the Arkansas shore—

After the others had been delivered—

and upon his order the provost-marshal detailed a guard of thirty men, commanded by an officer, for that purpose—

Now, mark you—

The guard so detailed went to the river to be crossed over, and while they were there they were recalled by the order of some officer—for what reason the affiant does not know.

Thus it appears that these three remaining boats had been placed by the claimant, on his own judgment, voluntarily, at this place as a temporary resort until they could be delivered on the other side. His own boat having been destroyed as the result of his own folly, or of the condition of things then surrounding him, there could be nothing more

natural than that on his appeal the Government should afford such assistance as was within its reach.

Mr. BROWN, of Pennsylvania. Then there was a guard sent to take charge of the boats?

Mr. GEDDES. No, sir.

Mr. BROWN, of Pennsylvania. I so understood the gentleman.

Mr. GEDDES. A guard started but was recalled.

Mr. BROWN, of Pennsylvania. Recalled by whom?

Mr. GEDDES. That does not appear; the presumption is that the guard was recalled by the same authority that sent it.

Mr. BROWN, of Pennsylvania. And that was the Government?

Mr. GEDDES. I presume by the authorities there on that side.

Mr. FINDLAY. How far had the guard proceeded before being recalled?

Mr. GEDDES. To the river.

Mr. FINDLAY. Did they get on the other side?

Mr. GEDDES. No, sir; here is the plain statement:

The guard so detailed went to the river to be crossed over, and while there they were recalled.

Mr. FINDLAY. Were they recalled after they had crossed the river or before?

Mr. GEDDES. Before—as they approached the river. Now, I do not desire to detain the committee further—

Mr. HOLMAN. Will the gentleman from Ohio allow me to ask a question touching the guard?

Mr. GEDDES. Mr. Chairman, what time have I left?

The CHAIRMAN. The gentleman has twenty-five minutes of his time remaining.

Mr. GEDDES. Very well; then I will yield any portion of that time which the gentleman from Indiana may desire.

Mr. HOLMAN. I do not care to occupy the time of the gentleman unnecessarily, but have merely risen for the purpose of asking him a question. The question I wish to ask is this: Whether or not any further attempt was made to protect this property by the Government than it was exercising all over the country to protect all other property from being destroyed; whether it was doing more than it was everywhere else to protect as far as it could property from being destroyed by the forces of the enemy? It does not appear on the face of the papers, although it has been a great many years since I looked over them; it does not appear on the face of the papers, so far as I remember them, when that consideration was presented to the Third Auditor or some other officer connected with the Treasury Department, that the Government was not making the same effort to protect this property that it was to protect all other property, not because it was the property of the United States or because it had been accepted by the United States, to protect it as it was the purpose and duty of the Government to protect the property everywhere.

Mr. GEDDES. I so understand the evidence in this case.

Mr. ROWELL. Was it not true there was a guard put aboard these barges, and is it not further true that that guard was afterward withdrawn?

Mr. GEDDES. No, sir; I do not understand such to be the case.

Mr. ROWELL. Is it not true that the gunboats put a guard aboard these boats and afterward withdrew that guard?

Mr. GEDDES. I am not aware any testimony was presented showing that fact.

Mr. ROWELL. Did not the gunboats put a guard on board those barges? I do not refer to any guard coming from Memphis, but to the guard coming from the gunboats.

Mr. FINDLAY. There were two sorts of guards.

Mr. ROWELL. That is it, and the testimony shows guards were put on board these barges from the gunboats, which guards were afterward withdrawn.

Mr. GEDDES. I do not remember that there was any active participation on the part of the Government to take possession of this property or to protect it or to have anything to do with it except as I have read from the testimony.

Mr. BAYNE. I scarcely think, Mr. Chairman, that the argument of the chairman of the Committee on War Claims is a fair one. He has done injustice to a citizen of my State of Pennsylvania, at all events in many of the things which he has said. He has endeavored to create an impression in the minds of the members of the House that Captain Bigley, who makes this claim, is a rich man. Now, to my certain knowledge Captain Bigley is not a rich man. He is not worth a dollar. I do not know what difference it makes, but I simply meet that man of straw with that statement on my part.

He has also attempted to create the impression that perhaps the reason why certain gentlemen favored this claim is because Captain Bigley is a citizen of Pennsylvania. It is scarcely fair to the Representatives of Pennsylvania to attempt to create any such impression. Captain Bigley is no more to me than any other citizen of this country. Captain Bigley is a man whom I casually know. Captain Bigley is an active member of a political party to which I do not belong.

Mr. GEDDES. The gentleman will permit me, I hope, to read from the testimony. The question was raised at the close of what I had to say, and now in reply I will read from the minority report. I did not

suppose that any claim would be made in that respect, but in response to that claim I will read from the minority report indorsing the report of the Senate, where it is stated on page 4 that "the claimant supposes he was advised a guard was detailed to protect the coal, but they never reported for duty." That is just as I claimed it.

Mr. BAYNE. The appeal I wish to make in this case is simply based on what I believe to be justice and fairness to this citizen of the country. The fact is very obvious that the Government wanted at Memphis 70,000 bushels of Youghiogheny coal; that an order was sent for that coal; that that order on the part of the Government reached Captain Bigley, and that Captain Bigley delivered that coal at Memphis. Those facts stand out indisputably, and no amount of quibbling or technicality will do away with them. The order for 70,000 bushels of coal was directed to Mr. Blasdel. Mr. Blasdel was also the man who was asked to deliver so many tons of hay. Who Mr. Blasdel was or is I do not know, nor do I care, but the fact is the order came into the possession of Captain Bigley. Captain Bigley provided the coal. He had the order in his pocket when he reached Cairo. He sought the Government officers and told them that it was unsafe to carry that coal to Memphis without a convoy. The Government furnished the convoy to protect that coal in its transit from Cairo to Memphis. The captain of the convoy, fearing to run one night when it was very dark, refused to go on farther and directed Captain Bigley to land. Captain Bigley, or the officer in command of the boat, said that he could not land at the point indicated by the officer in charge of the convoy. The difficulty, Mr. Chairman, of landing a fleet of that sort, some of them containing as much as 600,000 bushels of coal, over 20,000 tons and upward of 42,000,000 pounds in weight—I say the difficulty in controlling a fleet of that kind can not be measured or imagined except by those familiar with the navigation of these large streams under such circumstances—two and a half or three acres of coal floating on the surface of the water in barges and boats, and all of them controlled by one little steamer at the rear of the barges. So when the captain of the convoy required him to land the fleet that night, and he failed because he could not, he went on, and without the aid of the convoy succeeded in taking that coal and landing it on the Arkansas side of the river, two or three miles I believe only from the Memphis wharf proper.

Now, sir, what occurred? He took that coal there and landed it. He encountered a fog when he got there, which prevented him from landing on the Memphis side of the river. He found it impossible to take the coal to any other point than to the identical point to which he did take it. He could not take it to the Memphis wharf proper; it was too large a fleet to be taken there; and more than that, there were boats and barges lying at the wharf at Memphis, and to have attempted to land the fleet at the wharf proper would have resulted in the destruction of a number of boats and barges lying there at the time. But what more have we? He landed the fleet on the Arkansas side of the river, two miles proper from the wharf at Memphis, and there are eight old rivermen, captains and pilots of boats that navigate the Ohio River, experts in this business, who came before the Committee on War Claims, and every one of them swears that according to the customs and rules and practice in the delivery of coal on the Ohio River this was a good delivery. And there is not one tittle of evidence to controvert that fact.

No man comes before the Committee on War Claims and presents an affidavit or alleges in any manner that it was not a good delivery in accordance with the rules governing that traffic. These things must be taken into consideration as indicating the reasons which governed this claimant in the transaction now before us. It must be apparent to any man who will consider the matter and understands the facts that Captain Bigley was authorized to land at that point, because such a fleet as that which conveyed this coal could not be controlled as a skiff or an ordinary boat or a canal-boat or any other small-craft, and that such a landing was a good delivery. He had to do the best he could, as all the rivermen have had to do the best they could before and since, and eight of these men testify that that was a good delivery.

And now what further? Just as soon as the fleet was landed, just the moment that it arrived at that point, Captain Bigley or his officers went over to the Memphis side of the river and notified the Government authorities that the coal was there.

Mr. COSGROVE. Let me ask the gentleman from Pennsylvania a question.

Mr. BAYNE. Yes.

Mr. COSGROVE. Is there anything in the testimony to show that under such circumstances similar freight had been delivered at this point and was considered as a good delivery by the Government officials in charge?

Mr. BAYNE. I do not know whether there has been or not, but there is evidence to that effect from others. There is evidence by six or eight old rivermen that they regarded it as a valid and good delivery at the point.

Mr. HOPKINS. If my colleague from Pennsylvania will permit me a moment, I can answer that question by referring to the testimony of John Moore, who was a riverman, and for forty years engaged in this business. He says:

I never delivered any coal to the Government at New Orleans. I delivered coal to the Government at Memphis in 1863. I did not land at the city wharf

with any of it. I landed above the mouth of Wolf River, a mile or a mile and a half above the city wharf, where the Government always took charge of the coal upon its arrival and protected it.

Mr. ROGERS, of Arkansas. But that is on the Tennessee side of the river.

Mr. COSGROVE. Let me ask were the Federal authorities in possession of the place where the landing of this coal was effected?

Mr. GEDDES. That is just the point of trouble.

Mr. BAYNE. They were in possession of it. The Government gunboats were traversing the river constantly. They had control of that entire shore, and were expected to protect the property of citizens of the United States when they went there, independently of any contract on the part of this man for the delivery of this coal at that point.

My friend, the gentleman from Ohio [Mr. GEDDES] says that this was not a delivery. If that ground be taken away from his argument, if that proposition be eliminated from the report of the majority of the committee, then there is nothing in the world left to stand on. Now, was it delivered?

As I have said, six or eight old rivermen, captains, pilots, and others on the river, who were accustomed to the rules and regulations for the delivery of goods on that river, have all testified that it was a substantial compliance with the order to furnish the coal at Memphis.

It was taken there. The next step that was taken, as I have said, was for Captain Bigley to go over to the city of Memphis and notify the Government that the coal was there. The next thing that was done was for the Government to send over there and take away three of those barges of coal, taking them over separately to the wharf at Memphis. Why did not the Government take over the whole seven? Why did it not take them all over when it took the three? Why did it not prosecute that business and work of taking all these barges over at that time instead of taking only three of them over; and if it was not a delivery why did it take them over at all?

The reason why they did not take the whole seven barges over during that day was because, as testified by one of the witnesses, the whole seven barges could not be landed at the Memphis wharf without imperiling the other craft lying at that wharf. Then what more was done? The Government sent a number of men down to the river edge on the Memphis side to go over and protect those boats against guerrillas or any other interference that might be made with them.

What does the chairman of the Committee on War Claims admit? Why, he admits that after the Government had taken this step to that extent that very same Government ordered these men to the rendezvous or their barracks, and prevented this protection which it had insured by accepting the order to protect them. And yet he says the Government did not take possession of them. Guerrillas came in there and sunk those boats. Bigley was incapable of protecting them. But suppose that the force which went right down to the water's edge on the Memphis side had gone on those boats with rifles and bayonets and stood guard over those boats that night, would they have been destroyed? They would have been protected, and this loss to this citizen would have been averted.

I am amazed to hear anybody say that this was not a contract; and I am amazed to hear anybody say this was not a delivery; I am amazed to hear anybody say that the Government had not actually taken possession of this coal. The transaction was complete in all its parts. It lacked no essential of an executed contract. And the Government, on the strictest legal principles, apart from all the equities, is bound to pay that man that money.

Captain Bigley, as I have said, is a citizen of Pennsylvania. He is a reputable citizen of that State. He has raised a large family in that State, and they are all honorable people. He is a poor man, and the very poverty he is now enduring was brought upon him by the refusal of the Government to pay him what no honest man would withhold from another man under similar circumstances.

I ask Congress as a matter of simple justice, and with no other motive, for I have no interest in the case except to do what is fair and right by this man—I ask the House to pass this bill reported by the minority of the committee as a substitute.

Mr. HOPKINS. The gentleman from Ohio [Mr. GEDDES] attempted to create the impression that this was an appeal to the sympathy of this House. It is an appeal to the sense of justice of this House, and nothing else. The speech of the gentleman was very good as an appeal to a common jury. But I apprehend it will not be of equal effect upon intelligent members of this House.

The gentleman from Ohio was unfortunate in not having his memory refreshed as to the facts in this case. He said there was a telegram to Blasdel to furnish this quantity of coal, but it did not appear how this telegram came into the possession of this claimant. If the gentleman had been careful enough to read the next sentence after the telegram itself he would have found this:

That after receiving the said order this affiant [Blasdel] immediately proceeded North for the purpose of fulfilling the same, and in pursuance thereof obtained from N. J. Bigley, of Pittsburgh, 100,000 bushels of coal.

Now, I hope gentlemen will remember Blasdel was the agent of the Government. He was the man authorized to procure and forward this coal. Blasdel testifies that, acting as agent of the Government, he went

North and procured from Bigley that quantity of coal. Therefore that answers the statement as to the position of Mr. Bigley. It also answers the further statement that this was a volunteer assumption on the part of Bigley for speculative purposes.

There is nothing to sustain that assertion. The Government officer himself in his telegram fixes the price at 30 cents a bushel. The price is fixed by the Government. The Government agent then goes and seeks out Bigley. Bigley is not a volunteer. He does not carry the coal to Memphis at his own risk. He goes in pursuance of an agreement made with him at Louisville by the agent of the Government authorized to pay him 30 cents a bushel, which price he is willing to take.

The gentleman from Ohio is equally unfortunate in not remembering the facts in connection with the burning of the steamtug Hercules. I quote from the testimony of Daniel Pollard:

We, that is myself and Captain Langthorne, talked over the fact of the steamer that was then burning, and Captain Langthorne ordered a steamtug of the United States, having on board about twenty or more armed men, to proceed to the burning boat. United States Officer Moorehead was the officer commanding the United States steamtug that went over, and I went on board of her.

When we reached the place we found she, the steamtug Hercules, was not quite done burning, and that one coal-boat of her tow had been scuttled and sunk, leaving six coal-boats, laden with coal, that were safe; one of these six boats was afire aft, and the hose of the steamtug Captain Moorehead, put out the fire on said coal-boat.

There was the Government gunboat with Government soldiers in charge of the remainder of these boats, six in number. Another towboat, the Cricket, went over; and the boat already referred to, the Wisconsin, owned and controlled by the Government, carried three of these barges across, but it was too late at night to carry over the remaining three, and they were burned.

Now, gentlemen will remember that this was a contract for the delivery of this entire quantity of coal, not one barge, or two barges, or three barges; and I leave it to any lawyer whether under such circumstances the acceptance of a part is not the acceptance of the whole. The Government assumed control and custody of this entire cargo; the Government carried three of the barges across to its own wharf, intending to take the remaining three the same night, but failed to do so because night came on.

Mr. GIBSON (in his seat). The gentleman's law is not good.

Mr. HOPKINS. It is good. I assert that where there is a contract to deliver an entire quantity of coal, and the Government, by its officers, takes charge of six barges containing that coal and carries away three of them to the other side of the river, it assumes control and jurisdiction of the property and accepts a delivery of the whole. The Government in this case had taken all this coal into its custody, and had taken a part of it to another landing, leaving the residue in charge of its own officers.

Mr. HOLMAN. Upon that point—whether the Government did take possession of a part of this coal or not—I would like to read a few words from the evidence. On page 11 of the testimony I find the following statement made by the commander of the Hercules, which boat had this cargo in tow.

They then returned to the river—

He is speaking of the men after they had been captured and paroled—

They then returned to the river, which they reached about midday on the 18th of February, and were then taken on board the gunboat Cricket, after displaying a white flag, and carried over to Memphis. Immediately on reaching Memphis Peter G. Bigley, myself, and others got a towboat, the Wisconsin, and succeeded in towing over three coal-barges which lay near where the Hercules had been destroyed. Darkness came on, and the captain of the towboat Wisconsin refused to go over again, considering it dangerous.

Now my friend will perceive that the three boats which were towed across the river to Memphis and whose cargo was paid for by the Government were towed over for Mr. Bigley and at his instance—not as an act of the Government.

Mr. HOPKINS. No, sir; the testimony elsewhere shows that the Wisconsin was a Government boat; and on page 21 we have this evidence:

We were taken out about thirteen miles in the country; the next day we were paroled and permitted to return; found six of the seven boats still afloat, guarded by the United States gunboat Cricket, I believe.

These boats were guarded by the United States gunboat Cricket upon the motion of the Government itself. And before Mr. Bigley or any of his men had an opportunity to confer with any officers of the Government they were captured and carried thirteen miles into the country; and when they returned they found that these boats had been taken possession of by the Government, and were in charge of the gunboat Cricket.

Mr. GEDDES. I would like to have this made clear to me, a plain countryman: If there had already been a delivery complete and perfect on the Arkansas side of the river, how would a subsequent acceptance of three of the boats constitute a new delivery?

Mr. HOPKINS. I say it was in pursuance of the first acceptance and delivery that these boats were then in possession of the Government, whose officers, without consulting Mr. Bigley, took them to another landing. We do not contend that there was a new delivery at all.

Mr. BAYNE. And it was the Government boat that took them across?

Mr. HOPKINS. I have stated that the barges were carried across in charge of the Government; when these men returned from their captivity they found the Government in charge of these boats.

Mr. GEDDES. Would the effort of the Government to relieve those men from the guerrillas on the other side of the river make the Government responsible in this case? Both parties knew that the Arkansas side of the river was in the possession and under the control of the confederates.

Mr. HOPKINS. These coal-boats were landed under the charge of the Government gunboats and under the range of the Government batteries on the Memphis shore, as is proved by the testimony. The opposite side of the river, the Arkansas shore, was in effect in charge of the Federal forces, but a raid was made by guerrillas from the interior, who captured these men and carried them into the country.

Now, there is one other point which I must not overlook. Gentlemen will find upon page 19 a telegram from the colonel and quartermaster to N. J. Bigley:

Hurry on with your coal to Memphis. We must have it anyhow.

I have already, in answer to a question, referred to the testimony of one of the rivermen. Here is the evidence of eight of them, who, as my colleague [Mr. BAYNE] has said, are reputable men, men experienced in this coal business, and their uniform testimony is that a delivery within a mile or two of the wharf was a legal delivery in accordance with the customs of the coal trade, because it was often impossible to land a fleet of coal-boats at the ordinary landing of a city or town.

Mr. PETERS. What was the distance of the wharf at Memphis to the point where the boats delivered the coal?

Mr. HOPKINS. Simply the width of the river.

Mr. McMILLIN. Mr. Chairman, if there be no other gentleman desiring to speak on the pending question I shall move that the final vote be taken on the bill at once; otherwise I shall be compelled to move that the committee rise and go to the House for the purpose of closing debate, so that we may get through with this case before the hour of adjournment is reached. [Cries of "Vote!"]

Mr. HOLMAN. I wish to occupy a few minutes of time on this bill before the vote is reached.

Mr. McMILLIN. How much?

Mr. HOLMAN. Inside of ten minutes.

Mr. McMILLIN. I ask by unanimous consent that all further debate be closed on this case in ten minutes.

Mr. HOLMAN. That will not do.

Mr. McMILLIN. I will move, then, that the committee rise for the purpose of going into the House to limit debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Cox, of New York, reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 1347) for the relief of Capt. Nicholas J. Bigley, reported adversely by the Committee on War Claims, and had come to no resolution thereon.

Mr. McMILLIN. I now move that all debate on the pending bill and amendment be closed in ten minutes after their consideration shall be resumed.

Mr. HOLMAN. Does the gentleman mean general debate on the amendment?

Mr. McMILLIN. I wish to close general debate on the pending amendment and bill in ten minutes.

Mr. HOLMAN. I would suggest to my friend to make it thirty minutes. The chairman of the Committee on War Claims, reporting adversely, wishes to be heard, and I also wish to say a word or two, as I have had some familiarity with the question.

Mr. McMILLIN. I fear if we go on for half an hour longer in debating this bill we will not be able to get through with it this evening.

Mr. HOLMAN. Why not dispose of the bills already reported from the committee?

The SPEAKER. The question is on the motion that all general debate be closed in ten minutes on the bill and pending amendments.

Mr. HOLMAN. I must insist on there being a longer time for debate.

The SPEAKER. Does the gentleman from Indiana move an amendment?

Mr. HOLMAN. Yes, I do; I move as an amendment that the debate be allowed to proceed for thirty minutes longer.

The SPEAKER. The question is on the amendment.

Mr. HOLMAN. I demand a division.

The House divided; and there were—ayes 60.

Mr. HOLMAN. In view of the fact that no quorum seems to be present, I think the gentleman from Tennessee will agree that thirty minutes is not unreasonable. [Laughter.]

Mr. McMILLIN. Then I will make it twenty minutes.

Mr. HOLMAN. All right, then; that will be acceptable.

The SPEAKER. The Chair, then, understands that the time to which debate is limited is twenty minutes.

There was no objection, and it was ordered accordingly.

Mr. McMILLIN. I move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the Private Calendar (Mr. Cox, of New York, in the chair).

The CHAIRMAN. The House resumes the consideration of the bill (H. R. 1347) for the relief of Capt. Nicholas J. Bigley, and by order of the House all general debate on the pending bill and amendments thereto is limited to twenty minutes. The gentleman from Indiana is entitled to the floor.

Mr. HOLMAN. Mr. Chairman, I hope I will have the ear of the committee on two points involved in this discussion, both of which are based on the report of the minority. I trust, too, I shall have the ear of the gentlemen who have joined in this minority report.

Now, Mr. Chairman, it is stated in the report made by the minority that Quartermaster Eddy, at Memphis, sent a telegram to one E. S. Blasdel, esq. That telegram is as follows:

DEPOT QUARTERMASTER'S OFFICE,
Memphis, January 24, 1863.

E. S. BLASDEL, Esq.:

Furnish to this depot 75,000 to 100,000 bushels of Youghiogheny coal; also 2,000 tons of hay, for which a good market price will be paid; coal at 30 cents, and hay at \$27.50 per ton.

A. R. EDDY,
Per DAN. W. SENBE,
Chief Clerk.

Now, no such telegram was sent, and my friend must know that. Mr. Blasdel was at Memphis at the time. He was not engaged in the coal business; he never had been engaged in the coal business. This was a mere order to him to furnish facilities for speculation. The price was a handsome price.

Mr. STORM rose.

Mr. HOLMAN. I have only ten minutes.

Mr. STORM. But if the gentleman wishes the matter to be understood he must allow us to ask him questions.

Mr. HOLMAN. Certainly.

Mr. STORM. I wish to ask the gentleman a question, and it is this: Although there may be no direct proof of any special contract between the Government and the claimant, is not the Government by agreeing to take three barge-loads of coal and to pay for them estopped from claiming that there was no contract on that point?

Mr. HOLMAN. Is not my friend from Pennsylvania going far ahead of the point I am discussing? Blasdel started up the river with this order, and, according to the testimony, he delivered one of these at Louisville to the present claimant. There was no relation between the present claimant, Captain Bigley, and the quartermaster at Memphis. It was purely an order given to Blasdel that if he should deliver coal it should be at so much per bushel. There was no obligation resting on Blasdel or anybody else to deliver to the Government a pound of coal. The order was that if they should deliver coal to the Government it would be at that price.

I say upon my own responsibility that the party to whom the order was delivered was in no wise connected with the coal business in any manner, shape, or form. I do not say so much upon examination of the papers in connection with the present case as upon a thorough examination of this subject which I had occasion to give to it some years ago, perhaps some ten or twelve years since. However, as soon as Mr. Bigley obtained this order or telegram addressed to E. S. Blasdel he procured the coal and proceeded on his way to Memphis. The testimony shows conclusively that this extraordinary paragraph of the report of the minority is entirely a misapprehension. It says:

The evidence shows conclusively that the claimant was acting under the direct and positive orders of the agent of the Government, and that the loss of the property above mentioned was in no way chargeable to his neglect or carelessness.

Mr. STORM. It is a fact nevertheless.

Mr. HOLMAN. Nobody pretends to say that it was the result of his neglect or carelessness, and even if it had been said, it is a matter that is entirely unimportant in connection with this case. My friend from Pennsylvania knows that he was not acting under the orders of the Government at all. The captain of the steamer Hercules claims, and most of the testimony states the fact, that before reaching Memphis a heavy fog arose, and it was not deemed safe to land upon the Tennessee side of the river; consequently he concluded to land the fleet on the Arkansas side. Immediately on landing this guerrilla raid was made upon the party, and boats and men were captured and taken possession of by the raiders. It seems, however, that somebody connected with the fleet got across the river and came back the next day, when it is alleged that a Government vessel transported them across the river. Now, the facts in the case are that they did not apply to the Government at all.

No application was made to the Government to take control of that fleet. They applied to the steamer Wisconsin, and when they next crossed the river it was in this steamer, which succeeded in procuring three of the barges of coal and delivering them upon the Memphis side, where they were accepted by the Government and paid for. It has been stated as an argument in support of this claim that the delivery of a

portion of the coal—the partial delivery—constituted a delivery of the whole. But this delivery, this partial delivery, for which payment was made, was made in Memphis, not on the Arkansas side of the river. Gentlemen will perceive the distinction. There was no mutual contract at all. There was no agreement on the part of Captain Bigley to deliver so many boat-loads of coal to the Government, and on delivery to receive so many dollars for the service. But there was simply a proposition on the part of the Government that if you will deliver to us so many bushels of coal at Memphis you shall receive a good price for it; and, of course, so much of the coal as was actually delivered should be paid for, and I think to the extent of the three boat-loads actually delivered it was paid for. Unhappily, however, that very night the other boats were destroyed by guerrillas, which had possession of the opposite shore.

Gentlemen attempt in this argument to assume by way of support of this claim that the Government made efforts to protect this property and protected it as a part of the Government property. I must confess that when I first examined this case I was rather inclined to that opinion myself and thought it was entitled to some force, but after a more careful examination of the matter, on examining the reports of the Treasury officials, or perhaps some officer of the Quartermaster's Department, I find that it has no weight at all. It is a fact which will be verified by persons who are familiar with the circumstances existing there that the Government was engaged at this particular period in protecting property of its citizens on both sides of the river; and it protected this property of this citizen the same as if it had been the property of the Government. But it must be remembered also that it recognized the property as the property of Mr. Bigley, and just as it recognized and protected the property of other citizens. For Mr. Bigley was not bound to deliver that coal to the Government if he did not think proper. He was under no obligation to the Government to do so. If he did not deliver it he would have received no pay; that was all. But if he did deliver it, he would have received pay according to the terms of the order issued a month or more before.

I therefore submit the fact that the steamer Wisconsin having taken the three barges of coal across the river proves nothing except the mere fact. It is not the act of the Government, and even if so it would prove nothing but that the Government was pursuing its general policy in protecting the property of loyal citizens as far as possible.

Mr. BROWN, of Pennsylvania. Let me ask the gentleman a question.

Mr. HOLMAN. Certainly.

Mr. BROWN, of Pennsylvania. Is it not true that before the steamer Wisconsin had anything to do with the boats, even before these people got them back from the possession of the guerrillas, when they returned they found these barges in possession—six of them—of United States soldiers and before the steamship Wisconsin had anything to do with the matter?

Mr. HOLMAN. I will say this: The captain of the steamer Hercules—and any gentleman who reads this testimony will attach much importance to his statement, for he seems to have been a careful, impartial person; I refer to the officer of the vessel which was burnt, although he makes no reference to that—but it is undoubtedly true, as he testifies, that the Government had in front of Memphis at that time and for a long time before and afterward more or less of vessels constantly patrolling the river to protect under their guns as far as possible the property of citizens on both sides of the river. Any gentleman who happened to be at Memphis at that time will remember the fact, for it was notorious. This very vessel, the Cricket, to which reference has been made in this testimony, was engaged, and had been for a long time, protecting the property of loyal citizens on either shore, especially that within the reach of the guerrillas on the left side of the river. But the mere fact that the Government sent a gunboat or sent men or sent a whole regiment of men, if you please, to protect this property from the guerrillas on the Arkansas side of the river proves nothing in support of this claim, for it was just such an act as the Government was doing constantly with reference to the property of loyal citizens there, and was an act done in the exercise of its general powers to protect private property from destruction. That and nothing else.

Mr. Chairman, from the time I first examined this claim, a good many years ago—

Mr. STORM. How many?

Mr. HOLMAN. Ten or twelve.

Mr. STORM. The first I see anything of its appearance is in the Forty-seventh Congress.

Mr. HOLMAN. I think you will find it extends away back beyond that. I will not be certain, but I think it is several years since I reported on this measure myself. While this measure was in the hands of a bank at Baltimore, which was perhaps three or four years ago—

Mr. STORM. That is nearer it.

Mr. HOLMAN. The bank was pressing this claim on Congress, and I felt then, as I have always felt when the measure was under the control of Bigley, that it was one which required and demanded a careful examination. And I must say that during the time it has been under Bigley's control, as it is now, and as it was when it first came into Con-

gress, I thought he was himself entitled, as an amiable gentleman who had been manifestly eager to aid the Government as far as he could by furnishing coal at various points—he was entitled, I say, to every consideration. He had been employed by the Government and had executed such contracts time and again on express orders or telegrams from the Government. So far as I know, this was the only instance where he had attempted to make a shipment except on contract with the Government itself. Here he was dealing with Mr. Blasdel and not with the Government. He got a mere permission to ship the coal; nothing less, nothing more.

It will be observed that until Mr. Bigley and his men crossed the river and employed the Wisconsin to go over and tow the three boats the Government had no notice whatever even of Blasdel's transaction. It had no notice of it up to the time the Wisconsin crossed the river and towed the three boats over—

Mr. HOPKINS. I am sure the gentleman does not desire to misrepresent the facts.

Mr. HOLMAN. Certainly not.

Mr. HOPKINS. And therefore I call his attention to the testimony of Daniel Pollard, who was an officer on the United States boat V. F. Wilson, in which he says:

I wish to add to the above statement that Captain Langthorne said he was aware that the coal was for United States Government use, that is, for the United States Army department.

Mr. HOLMAN. How could he have known it that evening? Why, the very moment the boats landed it was boarded by guerrillas.

Mr. HOPKINS. Oh, no!

Mr. HOLMAN. The first notice the Government had was when the three boats were delivered on the other side.

Mr. GEDDES. I yield ten minutes to the gentleman from Kentucky [Mr. WOLFORD].

The CHAIRMAN. The gentleman has only six minutes remaining.

Mr. GEDDES. Then I yield what time I have to the gentleman from Kentucky.

Mr. WOLFORD. My distinguished friend from Pennsylvania [Mr. BAYNE] says there was an order. Now I assert there is no sense in which this telegraphic dispatch can be called a military order. An order delivered to whom and by whom? I say there is no sense in that claim; it is not an order.

The gentleman from Pennsylvania and other gentlemen have argued that it was a contract. I take it that there is not anything in this case that shows a contract. There was a proposition to receive so many bushels of coal, and to pay 30 cents a bushel for it. There is no proof in this case, and nobody pretends that that proposition was accepted. Neither by letter nor by telegraphic dispatch nor by messenger nor by any other way was there an acceptance. It is what we understand in our country to be a simple proposition, that may be accepted or may not be accepted. That is the way lawyers understand it in Kentucky.

I presume every lawyer understands an unaccepted proposition is not a contract. The gentleman from Pennsylvania, then, is mistaken about the order; he is mistaken about the contract. There was neither an order nor a contract. But a man voluntarily, for the purpose of making money, undertakes, of his own volition and according to his own mind, to make money out of the Government; he undertakes to deliver a certain amount of coal. He starts with it; sends word that he is unable to get through. Gentlemen say the Government sent assistance. But it seems to me the claimant violated the instruction of the Government officer who requested him to land, and whenever he refused to land he took out of the power of the Government any assistance that the Government offered him. He took his own risk. He says, "I know better than you." The officer commanding the gunboat says, "I will not go into that danger, I will not risk loss to my command and to the country, and therefore I will not go." Thereupon the claimant of his own accord voluntarily says, "I will go;" and he did go.

Now, that is the state of facts in this case. That is the statement of the gentlemen as they make it themselves.

But where does he land the coal? Gentlemen say there is proof here by experts that he landed it at a place where it was common to land it in time of war. Arkansas was then in the hands of the confederates; Tennessee in the hands of Union forces under McPherson; both parties were contending for the mastery; both parties were watching vigilantly for an opportunity to get anything they could that the others were grasping at. If the confederates could get this coal and destroy that much of our power they had a right under the rules of war to do it.

The claimant then chooses to land not on the side where it had been the custom heretofore to land supplies. He landed the coal on the confederate side. The great Mississippi rolls between the two forces. On his own authority this man lands this coal on the confederate side; and now he comes here and modestly asks the Government to pay him for the consequences of his own mistake. The guerrillas, it appears, captured and robbed him. He has my sympathies for what he suffered from the guerrillas; but if he had staid under the protection of the United States gunboats would the guerrillas have captured and robbed him? No. Believing that he was competent to take care of himself, he went to the other side of the river and was captured, and some of his

boats were sunk. The Government undertook to protect him so far as it could. But is there a man in this Congress that had anything to do with the war who does not know that both parties did all they could to protect the men on their own side? It matters not about the contract. Here was coal which the Government wanted, and they sent men to protect it. I have seen similar things done a hundred times.

The CHAIRMAN. The time allowed for debate has expired. The first question is upon the amendment submitted by the gentleman from Illinois [Mr. ROWELL] as a substitute for the bill. The proposed substitute will be read.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Nicholas J. Bigley the sum of \$21,211.40 for 70,638 bushels of coal lost at Memphis, Tenn., in the month of February, 1863."

The question being taken on agreeing to the substitute, there were—ayes 63, noes 78

Mr. BAYNE. I make the point that no quorum has voted, and call for tellers.

Tellers were ordered; and Mr. GEDDES and Mr. BAYNE were appointed.

The committee again divided; and the tellers reported—ayes 71, noes 79.

Mr. BAYNE. I have proposed to the gentleman from Ohio [Mr. GEDDES], who is ready to accept the proposition, that a vote on this question be taken by yeas and nays in the House.

Mr. HOLMAN. I suggest that by unanimous consent it be agreed that the bill with the pending amendment be reported by the Committee of the Whole without recommendation for the action of the House.

The CHAIRMAN. Is there unanimous consent that this bill with the proposed substitute be reported to the House without recommendation for the action of the House? The Chair hears no objection.

Mr. McMILLIN. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Cox, of New York, reported that the Committee of the Whole House, having had under consideration the Private Calendar, had directed him to report sundry bills with various recommendations.

A. H. HERR.

Mr. McMILLIN. I ask that the House now take up the bills reported from the Committee of the Whole House on the Private Calendar.

The SPEAKER. The Clerk will first report the title of a bill coming up under this order as unfinished business, having been pending at the adjournment of the House on the 27th of June last.

The Clerk read as follows:

A bill (H. R. 4380) for the relief of A. H. Herr.

The SPEAKER. The question is on the passage of this bill, the previous question having been ordered.

The bill was passed.

Mr. McMILLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SARAH E. WEBSTER.

The House proceeded to consider as the first bill reported to-day from the Committee of the Whole House on the Private Calendar the bill (H. R. 4679) for the relief of Sarah E. Webster, administratrix.

The SPEAKER. This bill has been reported with a recommendation that it pass.

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

Mr. McMILLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAMP DOUGLAS MILITARY RESERVATION.

The next business in order, having been reported from the Committee of the Whole House on the Private Calendar with a recommendation that it pass, was the bill (H. R. 1782) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah.

Mr. DIBRELL. I ask unanimous consent that Senate bill 478, which is now on the Speaker's table, and is precisely like this bill of the House, be taken up and considered in lieu of the House bill.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that this House bill be laid aside and a Senate bill of similar purport be taken from the Speaker's table for consideration. Is there objection? The Chair hears none.

The bill (S. 478) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas

military reservation, in the Territory of Utah, was accordingly taken from the Speaker's table, read three times, and passed.

Mr. McMILLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BILLS PASSED.

Bills of the following titles, reported from the Committee of the Whole House on the Private Calendar, with the recommendation that they do pass, were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. 948) for the relief of John M. Dorsey and William F. Shepard;

A bill (H. R. 1566) for the relief of O. L. Cochran, late postmaster at Houston, Tex., reimbursing him for money erroneously collected from him by the Post-Office Department;

A bill (H. R. 1266) for the relief of Alexander D. Schenck;

A bill (H. R. 4681) for the relief of Yost Harbaugh;

A bill (H. R. 2154) for the benefit of the legal representatives of A. J. Guthrie, deceased;

A bill (H. R. 2268) for the relief of John F. Severance; and

A bill (H. R. 4684) for the relief of certain citizens of Marion County, Tennessee.

The amendment reported by the Committee of the Whole House on the Private Calendar to the bill (H. R. 691) for the relief of William W. Thomas was agreed to, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ADVERSE REPORT.

The bill (H. R. 4683) to pay certain officers of the Army for services actually rendered during the late war, reported from the Committee of the Whole House on the Private Calendar adversely, was laid on the table.

ELIZABETH CARSON.

Mr. WILLIS. What has become of the bill (S. 12) for the relief of Elizabeth Carson.

The SPEAKER. The Chair is advised that it was not reported, but informally passed over in the Committee of the Whole House on the Private Calendar and not again taken up.

Mr. McMILLIN. I think the House, after I have made a statement, will be willing to pass this bill. It was considered in the Committee of the Whole House and the question was raised as to whether or not the substitute had been printed. It was passed over informally until examination could be made. The substitute was found to have been printed, and the remedy of the gentleman from Kentucky is to discharge the Committee of the Whole from the further consideration of the bill and put it upon its passage.

The SPEAKER. That can be done by unanimous consent.

Mr. WILLIS. I ask then, by unanimous consent, that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the bill and that it be put upon its passage.

There was no objection, and the motion was agreed to.

Mr. HOLMAN. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury of the United States, out of any money in the Treasury not otherwise appropriated, do pay to Elizabeth Carson, of Bourbon County, Kentucky, the sum of \$2,630.50, in full satisfaction for subsistence, use of jail, fuel, fire, care, and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States, in the years 1862, 1863, 1864, and 1865.

Mr. WILLIS. Now let the Clerk read the substitute reported from the Committee on War Claims.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to cause to be investigated by the Quartermaster's Department of the United States Army the claim of Elizabeth Carson, of Bourbon County, State of Kentucky, for subsistence, use of jail, fuel, fire, care, and attention alleged to have been furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States, in the years 1862, 1863, 1864, and 1865; such investigation to extend to the status of the claimant, whether loyal or not, the value of the supplies furnished, the actual rental value of the property for the time it was occupied and used by the United States authorities, the circumstances of the use of the jail and by whose authority or direction it was so used, and the reasons for the neglect to file her claim in the War Department; and when such investigation shall be completed the Secretary of War shall report the result thereof, with his recommendation thereon, to Congress, for its action in the premises.

The substitute was agreed to.

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

Mr. McMILLIN moved to reconsider the several votes which had been taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPT. NICHOLAS J. BIGLEY.

The SPEAKER. The question next recurs on the bill (H. R. 1347)

for the relief of Capt. Nicholas J. Bigley, reported from the Committee of the Whole House on the Private Calendar with amendments.

Mr. BAYNE. I move to take a recess until 8 o'clock this evening.

Mr. McMILLIN. The bill was reported back without any recommendation and was to be passed over until a yea-and-nay vote could be taken when a quorum was present.

Mr. HOLMAN. I think in accordance with the understanding that the yeas and nays ought to be ordered now on the substitute proposed to the bill.

Mr. McMILLIN. I have no objection to that.

The yeas and nays were ordered.

ORDER OF BUSINESS.

Mr. McMILLIN. I move that the House now take a recess until 8 o'clock to-night, under the prior order of the House.

The SPEAKER. Several gentlemen have bills and resolutions which they desire to offer for reference; if there be no objection the Chair will entertain such requests at this time.

Mr. McMILLIN. I have no objection to that, and withdraw the motion for that purpose.

GUN-FOUNDRY BOARD REPORT.

Mr. REED submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, That there be printed for the use of the House 1,000 additional copies of the gun foundry board report, transmitted to the Senate by the President of the United States on the 22d of December last.

TITLES TO CERTAIN PUBLIC LANDS.

Mr. MAYBURY, by unanimous consent, introduced a bill (H. R. 7878) to validate the title to certain entries, locations, and selections of public lands, and confirm the certificates and patents issued thereon; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PUBLIC BUILDING, NEWPORT, KY.

Mr. MAYBURY (by request), by unanimous consent, also introduced a bill (H. R. 7879) to provide for the erection of a public building in the city of Newport, Ky.; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PROSECUTION OF PENSION CLAIMS.

Mr. WARNER, of Ohio, by unanimous consent, introduced a bill (H. R. 7880) to regulate the prosecution of pension claims; which was read a first and second time, referred to the Select Committee on Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

JOHN KEEPERS.

Mr. ENGLISH, by unanimous consent, introduced a bill (H. R. 7881) granting a pension to John Keepers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SALARY OF CLERK OF SUPREME COURT.

Mr. SENEY (by request) introduced a bill (H. R. 7882) to fix the salary of the clerk of the Supreme Court, and to provide for the printing of records in suits in that court; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FRANK G. MIX.

Mr. BAGLEY, by unanimous consent, introduced a bill (H. R. 7883) for the relief of Frank G. Mix; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SOUTHWESTERN RIVER COMMISSION.

Mr. BRECKINRIDGE introduced a bill (H. R. 7884) to provide for the creation of a southwestern river commission, and for other purposes; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

PHILIP HACK.

Mr. HALSELL, by unanimous consent, introduced a bill (H. R. 7885) granting Philip Hack a pension; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JEREMIAH CLINE.

Mr. HALSELL also, by unanimous consent, introduced a bill (H. R. 7886) granting a pension to Jeremiah Cline; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM W. TADDER.

Mr. BROWN, of Pennsylvania, by unanimous consent, introduced a bill (H. R. 7887) granting a pension to William W. Tadder; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHRISTIAN HEBLE.

Mr. DEUSTER introduced a bill (H. R. 7888) to restore Christian

Heble to the pension-rolls; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANN J. EATON, ADMINISTRATRIX.

Mr. LONG, by unanimous consent, introduced a bill (H. R. 7889) for the relief of Ann J. Eaton, administratrix of the estate of Jacob F. Eaton; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN DOLAN.

Mr. LONG, by unanimous consent, also introduced a bill (H. R. 7890) for the relief of John Dolan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOUISVILLE AND PORTLAND CANAL, ETC.

Mr. WILLIS, by unanimous consent, introduced a bill (H. R. 7891) confirming the contract between the Louisville and Portland Canal and John P. Byrne; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM H. RAWLEY & SONS.

Mr. COVINGTON, by unanimous consent, introduced a bill (H. R. 7892) for the relief of William H. Rawley & Sons; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

BUSINESS OF THE COMMITTEE ON MILITARY AFFAIRS.

Mr. ROSECRANS. Mr. Speaker, I ask unanimous consent to present for consideration the resolution which I send to the desk.

The SPEAKER. The resolution will be read subject to objection. The Clerk read as follows:

Resolved, That House resolution of December 16, 1884, ordering that January 6, 1885, be devoted to the consideration of business reported from the Committee on Military Affairs and on the Calendar, be continued for January 13, 1885, or for the first day thereafter not taken for the consideration of appropriation or revenue bills or by prior orders, including the reports from the Committee on Public Lands under the order of January 21, 1884.

Mr. PETERS. I would like to make inquiry as to whether that includes an exception with reference to the bills from the Committee on Public Buildings and Grounds.

The SPEAKER. All prior orders are excepted. If there be no objection the question will be taken on the adoption of the resolution.

There was no objection.

The resolution was agreed to.

Mr. ROSECRANS 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 hour of 5 o'clock having arrived, in accordance with the prior order of the House a recess will now be taken until 8 o'clock, for the consideration of pension bills.

EVENING SESSION.

The recess having expired, the House reassembled at 8 o'clock p. m. The Clerk read the following communication:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,
Washington, January 9, 1885.

Hon. J. B. CLARK,
Clerk House of Representatives:

Hon. BENTON McMILLIN is designated to preside as Speaker *pro tempore* during the session of the House this evening.

J. G. CARLISLE,
Speaker House of Representatives.

ORDER OF BUSINESS.

Mr. McMILLIN, having taken the chair as Speaker *pro tempore*, directed the Clerk to read the special order of the House in relation to the business for this evening.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. MATSON. I move that the House resolve itself into Committee of the Whole House for the consideration of bills on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. HATCH, of Missouri, in the chair.

The CHAIRMAN. The House is in Committee of the Whole for the consideration of pension bills on the Private Calendar under the special order of the House which has just been read.

Mr. MATSON. I ask unanimous consent that the business of this evening may begin with the Calendar at the top of page 45.

There was no objection, and it was so ordered.

DANIEL W. ADAMS.

The first business on the Private Calendar, beginning on page 45, was the bill (H. R. 7141) granting a pension to Daniel W. Adams.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll the name of Daniel W. Adams, late of

Company A, Ninety-third Indiana Volunteers, subject to the provisions and limitations of the pension laws.

Mr. HEWITT, of Alabama. I ask for the reading of the report. I shall ask for the reading of the reports in all the cases to be considered this evening.

The report (by Mr. MATSON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7141) granting a pension to Daniel W. Adams, respectfully report:

That claimant enlisted in the military service of the United States as a private in Company A, Ninety-third Regiment Indiana Volunteers, August 9, 1862, and was discharged on surgeon's certificate of disability February 11, 1863.

June 23, 1880, he filed a declaration for pension (alleging that a cold contracted at Madison, Ind., November 10, 1862, resulted in disease of heart and lungs), which was rejected May 5, 1883, on the ground that disability is not due to military service.

It is shown by both medical and lay testimony that claimant was a sound, healthy man prior to and at the time of his enlistment in the military service of the United States.

It is disclosed by the evidence of two of the commissioned officers of claimant's company and three or four comrades of the soldier that while in camp at Indianapolis, Ind., soldier contracted disease of heart and lungs, and that at Madison, Ind., he was compelled, by reason of his disability, to go to hospital, where he was treated; but the character of disability is not disclosed by the record.

The surgeon's certificate of disability for the discharge of the soldier says the disability existed prior to enlistment.

The existence of disease of heart and lungs, for which the soldier was discharged, is shown to have continued from the time of its incurrence while in the military service and in line of duty to the present time. And the United States examining surgeon, Columbus, Ind., in an examination of the soldier, January 12, 1882, reports him totally disabled from this disability.

His case was investigated in March, 1883, by a special examiner of the Pension Office. In this examination Dr. John S. Arwine, of Columbus, Ind., testifies to an acquaintance with claimant from 1856 to the date of his enlistment, and that he was a sound man at the time of his said enlistment.

Daniel H. Sharp, of Columbus, Ind., testifies, March 23, 1883:

"That he has known claimant since 1857; lived about one-half mile from him from 1857 to July, 1861; saw him almost every day; he was then as stout a young fellow as there was in the neighborhood, and was so up to July, 1861, when I enlisted in the Army; saw him at log-rollings, and he was as good a lifter as we had; but at jumping he was never behind; I have often seen him run, jump, and lift; never knew him to be sick in any way."

John White, of Columbus, Ind., testifies, April 2, 1883:

"That he has known claimant since August, 1861; lived within three-fourths of a mile of him, and in the fall of 1861 shucked corn with him in the same field, and knew him well from that time until after harvest, 1862; saw him every two or three days; worked together about two months of that time, chopped wood together, and I helped him in harvest time 1862; he was then a good, sound man, did a good, fair day's work; and I never knew or heard of his being sick any of that time."

James E. Hammond, of Columbus, Ind., says:

"I first knew claimant in 1860, and have known him ever since; worked with him from August, 1860, to March, 1861. During part of the time we eat together and slept and worked together; he was then a stout, able-bodied man."

This testimony given above is very fully corroborated by all the witnesses examined by the special examiner from the Pension Office; all were neighbors and intimate acquaintances of claimant prior to and at the time of his enlistment, and the testimony as to the soundness of the soldier at the time of his enlistment is conclusive.

There is no doubt in the case as to the right of this soldier to a pension, and your committee recommend the passage of the accompanying bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARGARET A. MAGUIRE.

The next business on the Private Calendar was the bill (H. R. 6726) granting a pension to Margaret A. Maguire.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret A. Maguire, of Philadelphia, Pa., widow of George R. Maguire, deceased, late a lieutenant in the Thirtieth Pennsylvania Cavalry, United States Volunteers.

The report (by Mr. PATTON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6726) granting a pension to Margaret A. Maguire, have had the same under consideration, and beg leave to submit the following report:

Margaret A. Maguire is the widow of George R. Maguire, who served as first lieutenant and captain, respectively, in the Thirtieth Regiment Pennsylvania Cavalry, from October 20, 1862, to July 14, 1865. At the date of his death, June 8, 1879, he was in receipt of total pension for varicose veins of left leg, the result of typhoid fever contracted about June 1, 1863.

The claim of the widow has been rejected on the ground that the soldier's fatal disease, cancer of the bowels, was not chargeable to the military service.

It appears that Maguire came under the medical treatment of Dr. J. A. Holton, of Centerville, Md., March 22, 1879, for cerebro-spinal trouble and partial paralysis of entire right side, which, in the opinion of the physician, was caused by blood poisoning, the result of healing up of the ulcers of the leg, by which the drain from said ulcers was thrown back into the circulation, and general marasmus was produced. Previous to that time the soldier was confined to his room for weeks at a time by reason of the diseased condition of the leg, during which periods he was unable to retain anything in the stomach, as shown by the affidavit of Dr. Eugene Wiley. Recovering somewhat after three or four weeks' treatment by Dr. Holton, the soldier was removed to his home at Philadelphia, where he came under treatment by Dr. F. H. Gitchell, who testifies that when Maguire first came in his charge he was much broken down from the trouble with his leg, and, in the opinion of the affiant, would have recovered from the cancer of the bowels, which caused death, had it not been for the general impairment of his health by reason of the diseased leg.

The medical referee of the Pension Office admits that cancer is held to be referable to a blood taint, and implies the existence of such a cause necessarily, but denies that death in this case was caused by the condition of the soldier's leg.

The question to be decided by this committee is whether the opinion of that officer, who has had no personal knowledge of the case, should be accepted in opposition to the sworn statement of the attending physicians, who, from a professional knowledge of the case, are better able to judge that the cancer was caused by blood poisoning, superinduced by the too rapid healing of the ulcers of the leg.

The committee are clearly of opinion that the latter should govern its action in the determination of claimant's rights, and that whatever doubts may exist should be solved in her favor, and therefore report favorably on the bill and ask that it do pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARGARET A. RINGWALT.

The next business on the Private Calendar was the bill (H. R. 4266) granting a pension to Margaret A. Ringwalt.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret A. Ringwalt, sister of Lewis Ringwalt, late of Company F, Seventeenth Pennsylvania Cavalry, and to pay her the pension allowed by law to the dependent relatives of deceased soldiers.

The report (by Mr. PATTON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4266) granting a pension to Margaret Ringwalt, having duly considered the evidence in the case, report:

That Margaret A. Ringwalt is the dependent sister of Lewis Ringwalt, who enlisted in the military service of the United States as a private in Company F, Seventeenth Regiment Pennsylvania Volunteers, September 15, 1862, and was killed in action near Newtown, Va., by guerrillas October 11, 1864.

It appears that claimant is the sister of the deceased soldier, and lived with and was supported wholly by the soldier prior to his enlistment in the military service of the United States, and the fact that he contributed his pay as a soldier for the support of claimant is shown by the letters written to claimant at the time of sending the money, and by the testimony of the neighbors of claimant.

It is shown that claimant was never married, leaves neither father nor mother surviving, and that when 9 years of age she lost the sight of the left eye, and that she is now unable to perform any labor, as she has been an invalid for years, and is now over 71 years of age and without any means, and entirely dependent upon the charity of neighbors and friends for her maintenance.

The manner of the death of the soldier is shown by the following extract from a special correspondent of the New York Tribune, writing from Sheridan's army near Strasburg, Va., October 11, 1864, and which was published in the New York Tribune of October 18, 1864:

"A courier, arrived at headquarters at an early hour this morning, brings a report that the chief quartermaster of the Army, Lieutenant-Colonel Tolles, and Dr. Ohlenberger, medical inspector of the Army, had been shot by guerrillas on the road near Newtown. About 9 o'clock p. m. two ambulances came in, bringing both these gentlemen, mortally wounded. A brave old soldier named Lewis Ringwalt, belonging to Company F, Seventeenth Pennsylvania Cavalry, one of the escort, was also brought in. Colonel Tolles had a bullet wound in the back of his head, and one in his body. His face was also badly scarified, as if he had fallen from his horse or had been dragged over the rough pikes. The officers were returning from Martinsburg, with an escort of twenty-five men, and when about half way between Newtown and Middletown a company of guerrillas, led by 'White,' numbering from fifty to seventy-five, suddenly charged out of a belt of woods from the left of the road, firing as they came, and calling out to the officers to surrender. Seeing they were outnumbered, the escort endeavored to escape, but being well mounted the rebels overtook or cut them off, the officers being left in the rear. For some distance it was a running fight, in which the guerrillas had the advantage in numbers, being the pursuing party.

"The escort evidently did more running than fighting, only a portion of them using their carbines to any advantage. Ringwalt evidently fought with desperation, as he had one finger shot off, a serious scalp wound, and a mortal wound through the body. Ringwalt says the officers surrendered. Colonel Tolles's orderly says the same. Dr. Ohlenberger also surrendered; but the rebels rode close up to them, and putting their pistols to their heads fired, inflicting mortal wounds. One of our men was killed, named Samuel Deardorp, and seven were wounded. Ringwalt shot one of the guerrillas, and with the assistance of a part of the escort six or seven were wounded. The officers and men were robbed of money and watches. While the rebels were engaged in stripping their victims a party of infantry, who were accompanying a train, were seen coming up, and the guerrillas made off, taking one of our ambulances for their wounded. They carried off about half of the escort as prisoners.

"Colonel Tolles and Dr. Ohlenberger, with the wounded private, Ringwalt, were placed in ambulances and brought to General Sheridan's headquarters, where their wounds were dressed. Both officers were pronounced to be mortally wounded.

"The event has produced a sentiment of profound grief at the headquarters of the Army. Colonel Tolles was a most valuable officer, and a gentleman who had become greatly endeared to the officers during a long connection with the service. It is the general remark that he had no superior in the Army as an able and efficient quartermaster. He was a captain in the Fifteenth Infantry.

"Dr. Ohlenberger was also an officer of rare ability, and a gentleman who enjoyed the esteem and affection of a wide circle in the Army. They will be a great loss to the Army.

"October 12.—Lewis Ringwalt died early this morning. His family live near Carlisle, Pa. His faithful and soldierly conduct during this treacherous and overpowering attack upon the officers whom he was guarding entitles his memory to respect and his dependent family to the clemency of the Government.

"E. S."

The Philadelphia Press of Wednesday, October 26, 1864, says:

"DEATH OF A GALLANT SOLDIER.

"Lewis Ringwalt, a sergeant in Company F, of the Seventeenth Pennsylvania Cavalry, died on the 12th instant, near Strasburg, Va., from the effects of wounds received from guerrillas on the day previous, while gallantly guarding the medical inspector of Sheridan's army. As we have before stated, Lewis Ringwalt died on the 12th instant. The case of this brave soldier is entitled to more than ordinary notice. Surrounded by a large and influential circle of relatives and friends, residing near Carlisle, Pa., he was early impressed with the conviction that it was his religious duty to go forth and battle for his country, and while he had frequent opportunities for promotion, he declined them all, and preferred remaining in a humble position. The writer of this article knew him well, and has frequently heard of the valor he displayed on more than one occasion. His death will be deeply deplored, not only by his immediate family and a large number of our citizens in the locality where he lived, but by his fellow-soldiers, to whom he endeared himself by his kind and genial manner, and by the coolness and bravery he manifested in many perilous engagements."

December 17, 1883, General P. H. Sheridan certifies to the death of Lewis Ringwalt by wounds received from guerrillas between Winchester and Fisher's Hill, in October, 1864.

December 31, 1879, claimant filed her declaration for pension, which was rejected June 20, 1883, on the ground that the evidence filed by claimant shows that at date of soldier's death she was over sixteen years of age, therefore not entitled under the law.

Your committee find claimant was dependent on the deceased soldier for maintenance and support, and is now in her old age deprived of her means of support by the casualties of the late war, and therefore recommend the passage of the accompanying bill.

Mr. HEWITT, of Alabama. I wish to call the attention of the committee to the simple fact that this is adding a new class to the pension-rolls. The law gives to the dependent father or mother of a soldier who died in the service from wounds received or diseases contracted in the service a pension. That is the general law. It does not include a sister or a brother. This bill extends that provision of the law in this particular case upon strong grounds. I admit there are strong reasons for it, and that there are strong equities arising out of the circumstances of this case. I simply wish to call the attention of the House to the fact that it is a departure from the general law on this subject.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ESTHER HUDSON.

The next business on the Private Calendar was the bill (H. R. 2645) granting a pension to Esther Hudson, mother of William H. Hudson, deceased, late of Company G, Twenty-sixth Regiment Pennsylvania Volunteers, and Company E, One hundred and ninety-first Regiment Pennsylvania Volunteers.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Esther Hudson, mother of William H. Hudson, deceased, late a private in Company G, Twenty-sixth Regiment of Pennsylvania Volunteers, and afterward a sergeant of Company E, One hundred and ninety-first Regiment of Pennsylvania Volunteers, on the pension-roll, at the rate of \$8 per month, and to pay her, or cause to be paid her, a pension at said rate from the death of her said son, subject to the general laws should she again marry or her dependence upon her son cease.

The bill was reported with the following amendment:

In line 10 strike out these words: "At said rate from the death of her said son, subject to the general laws should she again marry or her dependence upon her son cease."

The report (by Mr. PATTON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2645) granting a pension to Esther Hudson, have had the same under consideration, and submit the following report:

That Esther Hudson was the mother of William H. Hudson, who enlisted as a private in Company G, Twenty-sixth Regiment Pennsylvania Volunteers, and afterward a sergeant of Company E, One hundred and ninety-first Regiment of Pennsylvania Volunteers, serving from the year 1861 to the close of the war.

At the time he enlisted and some years prior he lived with and aided his mother in obtaining a living, and during the time of his service in the Army sent her part of his wages.

It appears on file in Pension Department that the said soldier, in the month of November, 1861, prior to his entering the service of the United States, made a will, in which he bequeaths to his mother all his pay, bounty, or money in any way due him; and as evidence that the said mother did receive support from her son, the committee find on file in Pension Department letter from Second Auditor's Office, dated February 19, 1870, notifying Esther Hudson, mother, that certificate had been issued for money due William H. Hudson.

The committee also find from the evidence on file in department that the Commissioner of Pensions rejected the claim of Esther Hudson because of the marriage of said William H. Hudson some time prior to enlistment, and it is alleged that he never lived with his wife; and it also appears on file in Pension Department that an application for divorce was granted at Philadelphia, Pa., May 7, 1864.

In view of the facts, your committee believe that Esther Hudson was dependent on her son for support, and recommend that the bill (H. R. 2645) do pass as amended, namely:

Strike out all of line 10 after the word "pension," and also strike out lines 11 and 12 of said bill.

The amendment reported by the committee was adopted.

The CHAIRMAN. The question is, Shall the bill as amended be laid aside to be reported to the House with the recommendation that it do pass?

Mr. HEWITT, of Alabama. I wish to call attention of the Committee of the Whole to the fact that it is nowhere stated in this report that this soldier is dead. I suppose that you might infer that he was dead, for the report states that his mother had applied for a pension and her application was rejected on the ground that the soldier had a wife or a widow.

If it should appear that the soldier is dead the report fails to show that his death had any connection whatever with his services in the war. It is not every dependent mother or every dependent father of a soldier that is entitled to a pension upon the death of a soldier under the general law. Under the general law the dependent father or dependent mother is entitled to a pension provided the death of the soldier was caused by his service in the war. Now if this soldier's death was caused by his service in the war, the House, so far as this report is concerned, is in ignorance of that fact; and if the gentleman making this report is not in his seat, if any gentleman upon the committee can remember the facts in relation to this matter I would like to hear them before we are called upon to vote.

Mr. MATSON. My impression, and I think I may say my recollection, is that the question of the death of this soldier was not at issue at all. If I remember correctly, the death of the soldier was upon the

field of battle. At any rate, I am very sure there was no question and no dispute of that kind in this case.

The only question was as to the right of this mother to a pension, the soldier having been married and subsequently divorced. She seemed to show that she was in a dependent condition, and wholly dependent upon this soldier. Hence the committee did not hesitate to recommend the passage of the bill. I feel perfectly safe in saying there was no question at all as to the cause of the soldier's death being connected with the service.

Mr. HEWITT, of Alabama. I wish to call the attention of the chairman of the Committee on Invalid Pensions [Mr. MATSON] to the very first clause of the report in this case, showing that this soldier was not killed in battle during the war. The report states that he served from 1861 to the close of the war, that he was a sergeant in Company E, One hundred and ninety-first Regiment of Pennsylvania Volunteers, serving from the year 1861 to the close of the war.

I think this case had better be passed over. If the death of the soldier was caused by service in the war that fact ought to be stated in the report, so as to go on record. If the gentleman from Pennsylvania [Mr. PATTON] who reported this bill is not now in the House, let it go over till he comes in.

Mr. MATSON. I have no objection to allowing the bill to be passed over informally if the gentleman from Alabama so desires.

Mr. PATTON. My impression is that this soldier, William H. Hudson, died soon after coming home, and from wounds received while in the service. The question raised in the Pension Department was whether his mother was dependent. He had been married and his wife had obtained a divorce. It appears, as stated in the report, that there is on file in the Pension Department, a letter from the Second Auditor's Office, dated February 19, 1870, notifying the mother that a certificate had been issued to her for money due Hudson, who had made a will bequeathing to his mother all his pay, bounty, or money in any way due him.

Mr. McMILLIN. The gentlemen speaks of his "impression" concerning the cause of the soldier's death. Is he satisfied of the fact?

Mr. PATTON. No, I am not.

Mr. McMILLIN. Then this bill ought to be passed over till the question can be examined. The point is one on which of course the House ought to be satisfied.

The CHAIRMAN. The gentleman from Alabama [Mr. HEWITT] asks unanimous consent that this bill be laid aside informally. Is there objection? The Chair hears none, and it is so ordered.

PLEASANT MINET.

The next business on the Private Calendar was the bill (H. R. 4751) granting a pension to Pleasant Minet.

Mr. MATSON. I ask unanimous consent that this bill be reported to the House with a recommendation that it lie on the table, as the man has, since the bill was reported, received a pension through the ordinary channel.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported to the House with a recommendation that it lie on the table.

There was no objection, and it was ordered accordingly.

HENRY DAVIS.

The next business on the Private Calendar was the bill (H. R. 6997) granting a pension to Henry Davis.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Henry Davis, late lieutenant-colonel of the Eighty-second Regiment Indiana Volunteer Infantry, on the pension-roll, subject to the limitations and conditions of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6997) granting a pension to Henry Davis, report:

That claimant enlisted in the military service of the United States as lieutenant-colonel of the Eighty-second Regiment Indiana Volunteers, August 27, 1862, and resigned October 1, 1863, on account of inability to stand the hardships of the service.

June 11, 1883, he filed an application for pension, alleging that at the battle of Chickamauga, September 20, 1863, he contracted hernia, which was rejected January 30, 1884, on the ground that claimant did not mention the disability in his resignation from the service.

Dr. John W. Newland, of Bedford, Ind., testifies, June 11, 1883, that he has known claimant for twenty-five years or more; was his family physician while he lived at Bedford before enlistment; he was then a sound, healthy man, free from hernia. About ten years ago he consulted affiant in reference to the use of the Egelson truss. At that time I made a personal examination of him, and found that he was ruptured on both sides at the lower extremities of the abdomen.

Dr. Addison W. Bare, Bryantville, Ind., testifies, "that about September 20, 1862, the date of claimant's enlistment, and prior thereto, I was his family physician, and consequently very intimately acquainted with him; that he was then a sound man, in good health, and free from hernia."

Charles D. Briggs, Isola, Kans., testifies:

"At the battle of Chickamauga, September 20, 1863, I saw claimant at the time he received his injury. He was serving on foot with the regiment. I saw him fall during the heat of the battle, and supposed he was killed, and it was so understood along the line. He, however, only received an injury from which hernia of both sides ensued. Knows this from personal knowledge and being present at the time."

In answer to a letter from the Pension Office, the witness further says:

"I believe his hernia was received from an accident on the battlefield of Chickamauga. Companies A, B, and C, of the Eighty-second Indiana, were detailed with Church's Fourth Michigan Battery to act as skirmishers, and while upon said line the rebel forces attempted to take said battery. Lieutenant-Colonel Davis started to that point to rally some of the men, when his foot caught in a root or his saber, and he fell heavily upon the same, which I think penetrated the groin and produced hernia, as I understood at the time."

Calvin E. Pearson, of Alaska, Ind., testifies to substantially the same as above witness.

Morton C. Hunter, colonel of claimant's regiment, testifies:

"At the battle of Chickamauga we were dismounted on account of the nearness of the enemy, and we were in the woods. My regiment formed the second line of the Third Brigade, Third Division, Fourteenth Army Corps. The first line was driven back and passed over my regiment, which at the time was lying down. After they had passed over I ordered my regiment to fire; then ordered a charge, which drove the enemy back and regained the breastwork from which the first line had been driven. I ordered Col. Henry Davis to deploy the two right companies and protect my right flank. This order he promptly obeyed. Colonel Davis with his line of skirmishers was driven back slowly, fighting from tree to tree. While going back his sword-scarbard was struck by a ball, the former getting between his legs, throwing him down. From this fall Colonel Davis was injured. I saw his saber-scarbard a few minutes afterward, and it was bent from having been struck by a ball."

In addition to the evidence specifically referred to above, it is clearly shown that the soldier was free from disease at the time of his enlistment, and that his disability has continued from the time of his discharge from that service, being given by the United States examining board of Mitchell, Ind., in an examination made September 5, 1883, at three-fourths total. In view of these facts your committee recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

SAMUEL W. TRACEY.

The next business on the Private Calendar was the bill (H. R. 435) granting a pension to Samuel W. Tracey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Samuel W. Tracey, late of Company E, Twenty-fifth Regiment of Indiana Volunteers, on the pension-roll, subject to the provisions and limitations of the pension laws, from and after the passage of this act.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 435) granting a pension to Samuel W. Tracey, having considered the evidence, respectfully report:

That claimant was mustered into the military service of the United States as a private in Company E, Twenty-fifth Regiment Indiana Volunteers, September 19, 1864, and honorably discharged June 4, 1865.

October 16, 1878, he filed a declaration for pension, alleging that, about December, 1864, about forty miles from Savannah, Ga., while tearing up a railroad, he received an injury to his back, causing disease of kidneys, which was rejected April 10, 1879, on the ground that no disability exists from cause alleged.

William K. Stewart, of Spencer County, Indiana, testifies that he was second lieutenant of claimant's company and regiment, and that the soldier was severely injured at the place, at the time, and in the manner stated in his declaration for pension.

Dr. E. S. Arwine, of Bedford, Ind., testifies that soldier came under his professional treatment in 1875 for disease of the kidneys, and that he continued to treat him for said disability until the year 1882, when affiant moved to Texas; that during the time he so treated him he was one-half disabled from the performance of manual labor.

Dr. U. N. Mellette, of Johnson County, Indiana, testifies to having treated claimant for disease of the kidneys during the year 1874.

Dr. J. T. Mattock, of Hartsburg, Logan County, Illinois, testifies that he treated claimant for kidney disease from September, 1865, until January, 1867, and that the soldier was unable to get out of bed or help himself during that period.

Joseph M. Young and Robert H. Fowler, of Brown County, Indiana, in a joint affidavit, testify, October 2, 1882, that they have been near neighbors and intimate acquaintances of claimant from the year 1867, and that during that time he has been suffering from kidney disease, and has been disabled for the performance of manual labor at least one-half of said time by reason of his disability.

Claimant is shown to have been a sound, healthy man at the time of entering the military service of the United States.

Manly Mead and Alexander Condon, of Brown County, Indiana, whose reputation as citizens is shown to be of a high character by a number of the county officers in the county in which they reside, testify to an intimate acquaintance with claimant and a personal knowledge of his condition since he came home from the Army in June, 1865, and that during this time he has been suffering from disease of the kidneys and back, and that he has been disabled at least one-half from the performance of manual labor by reason of the same.

The United States examining board of Indianapolis, Ind., in an examination of claimant, September 27, 1882, rate him at one-fourth.

Your committee are of the opinion that it is clearly shown that the disability of the soldier was contracted in the military service of the United States and in line of duty, and therefore recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ABRAHAM COVER.

The next business on the Private Calendar was the bill (H. R. 4021) granting a pension to Abraham Cover.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Abraham Cover, late first lieutenant of Company M, Sixth Regiment Illinois Cavalry Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4021) granting a pension to Abraham Cover, report:

That claimant enlisted in the military service of the United States as first lieutenant Company M, Sixth Illinois Cavalry Volunteers, January 9, 1862, and resigned January 3, 1863, on surgeon's certificate of disability.

August 30, 1876, he filed a declaration for pension, alleging "chronic rheumatism and chronic nephritis, resulting in epilepsy, contracted during the winter

of 1861 and 1862, while on the road between Camp Butler and Shawneetown, Ill., which was rejected November 28, 1876, on the ground that the disability existed prior to service.

It is shown that soldier went into camp with his company October 20, 1861, but was not commissioned until January 9, 1862.

Capt. Isaiah M. Sperry, of Cobden, Ill., testifies March 31, 1882: That he was captain of claimant's company, which was enrolled October 12, 1861, and mustered January 9, 1862; that about December 1, 1861, claimant incurred an attack of rheumatism from exposure to rain and cold; was in hospital several weeks; again, about September 16, 1862, while in line of duty was attacked with rheumatism and sent to hospital at Cairo, Ill., where he remained until November, 1862; in December, 1862, from exposure to rain, was again attacked with rheumatism. Claimant remained with the company until it reached Holly Springs, Miss., when he was discharged on surgeon's certificate for rheumatism and nephritis; that soldier was sound at time of enlistment; that from the date of his discharge to present time claimant has been entirely unable to perform manual labor, from disease contracted in the Army.

Dr. A. G. Agnew, assistant surgeon of claimant's regiment, testifies March 31, 1882, that claimant came home on a sick leave of absence, suffering from rheumatism and nephritis. As soon as sufficiently recovered he returned to his command. In December, 1862, claimant was again attacked with above-named diseases, in consequence of exposure, and it became necessary for him to go home to save his life. Affiant was claimant's family physician before his enlistment, and the soldier was then a sound man.

Dr. James S. Whitmer, surgeon of claimant's regiment, testifies March 31, 1882, that claimant was attacked with acute rheumatism in December, 1861, on the march from Duquoin to Shawneetown, Ill., and was in the hospital about two months; during a part of the time affiant attended him.

R. Loomis, major of claimant's regiment, in accepting the resignation of the soldier, January 2, 1863, indorses on said resignation a statement that the disability existed before entering the service.

Dr. J. C. Allen, in an affidavit in his own handwriting, testifies March 31, 1882, that he knew claimant from 1853 to the time of his enlistment, and he was then well and hearty; that he was claimant's family physician from 1864 to April, 1873, during which time soldier was totally unable to perform any kind of manual labor, suffering from rheumatism and other diseases.

Dr. J. Bentley testifies, March 31, 1882, that he was claimant's family physician for nine years prior to his enlistment, and that he was a sound, healthy man at enlistment, free from all symptoms of rheumatism of the heart, or angina pectoris, with which he has suffered since his military service.

This medical testimony is substantially corroborated by that of Dr. James H. Hall.

A number of witnesses, all near neighbors and intimate associates of claimant prior to his enlistment, testify to his good health prior to and at the time of his enlistment.

The United States examining board at Carbondale, Jackson County, Illinois, examined claimant May 3, 1882, and report his disability at one-half.

Your committee are of the opinion that the soldier was free from disease at the time of his enlistment, and that his present disability is due to his military service, and therefore recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JAMES STOCKTON.

The next business on the Private Calendar was the bill (H. R. 2377) granting a pension to James Stockton.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place the name of James Stockton, formerly of Company D, Thirty-first Regiment Missouri State Militia, on the pension-roll, subject to the provisions and limitations of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred bill H. R. 2377, beg leave to submit the following report:

Your committee report that under the call of Hamilton R. Gamble, governor of Missouri, James Stockton organized Company D, Thirty-first Regiment Enrolled Missouri Militia, and that on the 19th day of September, 1861, said Stockton was commissioned and mustered in as captain of said company.

While in active service and on the 15th day of October, 1862, and in pursuit of a guerrilla band near Platte City, in Platte County, Missouri, the guerrillas turned and fired on said company, and at the flash of the guns the horse of Captain Stockton was killed, and in falling threw Stockton to the ground, injuring his arm so seriously that shortly thereafter it was amputated.

The only ground on which the Pension Bureau rejected the application of claimant is, to use the language of the Pension Commissioner, because "the claimant was not in the military service of the United States, the Thirty-first Enlisted Missouri Militia being a State organization, and therefore not pensionable under existing laws."

But said Stockton was acting under orders of officers in the Federal Army, and was co-operating with the troops of the United States in aiding to restore the supremacy of the Government, when he received the injury that resulted in the loss of his arm.

He is now perfectly impecunious and 85 years of age, and your committee recommend that the bill do pass.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

DAVID WHITTINGTON.

The next business on the Private Calendar was the bill (H. R. 6692) granting a pension to David Whittington.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of David Whittington, late a private in Company K, Sixtieth Regiment Enrolled Missouri Militia.

The report of the committee was read, as follows:

That David Whittington enlisted in Company K, Sixtieth Regiment Enrolled Missouri Militia, August 10, 1862.

There is any quantity of evidence to the fact that prior and up to date of enlistment said Whittington was a hale, hearty, able-bodied man. That on or about the 1st day of February, 1863, near Germantown, Mo., and while in service, he was attacked by heart disease that so prostrated him he was unfit for duty, and on 21st of March, 1863, he was discharged from service on surgeon's certificate of disability. These facts are testified to by Jonathan Eskew, William Tuttle, and C. S. Tuttle. That from February, 1863, to present time he has almost

all the time been disabled for labor one-half the time, and is now totally disabled for labor.

These facts are testified to by Dr. D. M. King, Dr. W. F. Baren, Dr. John Bloekburn, Dr. A. H. May, D. C. Boyer, S. W. Calvert, and J. T. Vogan, some of whom lived in the same house, others at a distance of from one-fourth of a mile to five miles, and who saw and were in the company of said Whittington frequently every day. He is very poor, disabled from labor, and will be dependent on the charity of his neighbors if not relieved by the Government in whose service he incurred his disability. The only ground upon which the Pension Department rejected his claim is that the organization to which he belonged was not in regular United States service, and therefore not pensionable.

Your committee therefore recommend that the bill do pass.

There was no objection, and the bill was laid aside to be reported to the House with a recommendation that it do pass.

CLARK G. MAINE.

The next business on the Private Calendar was the bill (H. R. 7000) for the relief of Clark G. Maine.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Clark G. Maine, late a private in Battery E, First New York Light Artillery.

The report (by Mr. BAGLEY) was read, as follows:

The basis of the petitioner's claim is that on the Weldon Railroad, Virginia, February 25, 1865, he was thrown from a horse, and sustained an injury to his right shoulder and side. The committee find from the claimant's affidavit that he was injured while riding toward City Point, Va., alone, about 10 o'clock at night; that he was ordered to go by a sergeant, and thinks none of his officers knew when he started or returned; that he does not know and can not learn the address of the sergeant who ordered him to go; that only Lieutenants Matherson and Humphrey were with the company at the time, and he is confident he saw neither of them; that Lieutenant Matherson has informed him that he can not recollect the facts definitely enough to testify, and that he has no other means of proving the facts except by his tent-mates, Seymour Lloyd and William E. Haskell.

The testimony of these two men, Haskell and Lloyd, who were tent-mates of claimant, is substantially as follows: That about March 1, 1865, in front of Petersburg, Va., in the night-time, petitioner was sent on horseback to ascertain the cause of artillery firing in the direction of City Point; saw the next day that his face and mouth were badly bruised, and complained of great injury to his right shoulder; stated the horse threw him, and struck or fell on him; the surgeon examined and directed him to go to the hospital, but he urged to be excused from the hospital, and was allowed to remain with the regiment. When he attempted to do anything requiring the use of his shoulder great pain was evident, and he was finally released from duty as No. 1 on the piece, and given charge of a team. His shoulder appeared to remain substantially the same until he was discharged.

James H. Graham, another comrade, testifies same as Haskell and Lloyd.

To show the continuance of the disability, Seymour Lloyd says, under oath, dated December 3, 1883, that after discharge he worked for claimant frequently for several years, and also worked with him; that claimant could not do heavy work that required a strain on his shoulder, and in his opinion he was disabled from the performance of manual labor one-half by reason of the injury.

Elbridge G. Seymour, M. D., testifies, April 19, 1883, that claimant called on him in July, 1865, for advice and surgical treatment of right shoulder joint. On elevation of arm distinct crepitus could be felt and heard at quite a distance, crepitus being in the shoulder-joint; felt most distinctly on upper anterior surface, giving a feeling of loose cartilage. Came to affiant's office at different times, with only temporary relief.

David S. Sayles testifies, April 19, 1883, that after claimant's discharge from the Army in 1865 he was very lame in his right shoulder. Lived near, and labored with, for, and on lands adjoining claimant the greater part of thirteen years. That during all that time claimant was lame and showed great suffering from injury to right shoulder. Thinks the labor done with the right arm for fourteen years was with great pain and suffering. Mary Lizzy Maine, who is not related to petitioner, corroborates and indorses the affidavit of Sayles.

Benjamin F. Dump, examining surgeon, says he finds the applicant in good physical condition, except the results of a fracture of the right scapula, involving all the scapula above the spine. There is strongly-marked crepitus upon rotation or any motion of the head of the humerus. Injury said by claimant to have been caused by the fall of his horse. The action and usefulness of the shoulder greatly impaired. Fully three-fourths disability.

The claimant's service was as a private in Company E, First New York State Artillery, in which he enlisted August 31, 1864, and from which he was discharged June 16, 1865. Declaration for pension was filed June 30, 1880, and rejected on the ground of claimant's inability to furnish any satisfactory evidence that injury was received in line of duty.

The committee, however, believe the statements made, and that the claimant is justly entitled to a pension, and therefore recommend the passage of the bill.

Mr. HEWITT, of Alabama. Mr. Chairman, I shall have to object to the passage of this bill. I do not think it is good policy for the House to pass bills which have been rejected by the Pension Bureau, not on account of any technical objection, but upon the ground that the evidence failed to sustain the application. Now, here is a claim for a pension which was not filed nor the claim made until about eighteen years after the close of the war. That very fact, the long delay in applying for a pension, while it is not conclusive, and I do not pretend to say that it is, nevertheless it is presumptive evidence at least against the fact that he was injured or had a pensionable disability at the time he was discharged from the service. I am aware there are many good men and good soldiers who have had pensionable disabilities at the time of their discharge who probably have not yet applied for a pension, but there are not many of them.

There is another fact connected with this case, and it is this: This soldier says he was sent by an order from his sergeant after night from Petersburg to some point in Virginia near there, and that in making that ride his horse fell and he was injured in the shoulder, but he says that he can not remember the name of the sergeant. The sergeant of his company gives him an order, and yet he says he can not remember the name of that sergeant!

Mr. BAGLEY. Let me correct the gentleman from Alabama. What he said was that he could not learn the address of the sergeant who had ordered him to make that night ride.

Mr. HEWITT, of Alabama. Now let us see about that.

Mr. BAGLEY. You are mistaken about his not remembering the name of the sergeant.

Mr. HEWITT, of Alabama. He said that he can not remember the address. Well, he ought to have at least given the name of the sergeant, which is part of the address. The address is the name and the place of residence of the sergeant. So I was correct in my statement, as the report shows.

He says another thing, or at least this report states, that he did not believe that any of his officers knew of his being sent out.

Mr. BROWN, of Pennsylvania. They did not know when he went or when he returned.

Mr. HEWITT, of Alabama. Ah! The order, if issued regularly, would have to pass through these officers. It is therefore a strange thing to me that his officers did not know within a few hours or at least within a day of the time when he returned. If he was injured they must have known of it. It must have been reported to them.

Mr. MATSON. Will the gentleman from Alabama [Mr. HEWITT] permit me to ask him a question?

Mr. HEWITT, of Alabama. With pleasure.

Mr. MATSON. Does the gentleman intend to insist upon his objection to this case?

Mr. HEWITT, of Alabama. I do.

Mr. MATSON. Then I ask by unanimous consent that the case be informally passed over.

There was no objection, and it was ordered accordingly.

JOHN F. CHASE.

The next business on the Private Calendar was the bill (H. R. 6904) for the relief of John F. Chase.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John F. Chase, formerly a member of Company B, Eighteenth Regiment New York State Infantry Volunteers.

The report of the committee was read, as follows:

The petitioner was mustered into the service of the United States on May 17, 1861, and discharged July 12, 1861. His service was that of a private in Company B, Eighteenth Regiment New York Volunteers. Declaration for pension made March 20, 1879, and the basis of the claim is as follows:

"At Jersey City, N. J., about May 10, 1861, was ruptured in the right groin, caused by removing baggage from steamer to railroad, under orders of his captain."

In another declaration, made November 18, 1879, he says that about May 15, 1861, in lifting a large trunk, slipped and fell, causing a severe rupture.

Claim was rejected on the ground of claimant's inability to show the incurrence of rupture of the right side in the service and the line of duty.

Certificate of disability for discharge shows that claimant was discharged on the 12th day of July, 1861, at Washington, D. C., because of scrotal hernia of the right side, caused by extra exertion, on the 19th June, 1861. Certificate is signed by W. A. Jackson, colonel commanding the Eighteenth Regiment New York Volunteers, and is approved by A. N. McLaven, surgeon, United States Army, and medical director.

Claimant, in his affidavit filed May 4, 1881, says that while at Jersey City, en route for Washington, was injured in the following manner: He was ordered by an officer of his company to lift a large, heavy trunk from the barge to the dock; at that moment a steamer commenced moving off, causing the barge to rock, and throwing him off his balance; felt a severe strain in his right side as of something giving way, and he let the trunk fall and fell forward on its corner, injuring himself just above the right groin. When the regiment arrived at Meridian Hill, District of Columbia, he called on Surgeon Van Ingen, who examined him and pronounced it scrotal hernia. The surgeon told him, as the regiment was about to move, that he could go to hospital or be discharged, and he accepted the latter. After discharge he returned to his home, and in a few days called on Dr. Chambers, who advised him what kind of a truss to get. Dr. Chambers has since died. Claimant also swears that he has been unable to procure the testimony of an officer of his regiment as to incurrence of injury for the reason that the colonel and surgeon are dead. Other officers he has been unable to find and others do not remember circumstances.

Abram D. Fox and Charles C. Phillips testify that they were boys with claimant, and frequently went in bathing, and know claimant was sound at enlistment. In addition to the above, Fox testifies that he saw claimant about a week after his discharge; he was then weak and emaciated, and complained of pain in his groin, and in walking put his hand on his bowels on his right side, and walked in a stooping position. Was not able to perform any labor for five or six months, and afterward but very light labor.

Robert B. Whitlock says he and claimant were drafted into the service during the year 1863, and were examined at Schenectady, N. Y., and affiant was present when claimant was rejected on the ground of being ruptured. Claimant then stated that he was ruptured while in the service of the Government.

The claimant is unable to furnish any affidavits of officers or comrades, which is, of course, unfortunate; but his own affidavit bears upon it the impress of truth, and his reputation is good in the community in which he lives. His prior soundness is supported by testimony of those who always knew him, and his debilitated condition immediately after his return from the Army are facts indicating disability received while in the service.

The committee think him entitled to a pension, and recommend the passage of the bill.

Mr. HEWITT, of Alabama. I have not had an opportunity to read the report, but I wish to ask the gentleman who reported the bill whether he favors the pension upon the unsupported affidavit of this soldier? I would infer so.

Mr. BAGLEY. The certificate of disability shows he was injured and the character of his injury. It is signed by W. A. Jackson, colonel commanding, and is approved by A. N. McLaven, surgeon United States

Army. It was on that ground the favorable report was made, and that is good evidence.

Mr. HEWITT, of Alabama. Did he file an affidavit for a pension at the bureau?

Mr. BAGLEY. He did, but his claim was rejected, as he was unable to prove the rupture.

Mr. HEWITT, of Alabama. Does the discharge show that he was injured?

Mr. BAGLEY. It does; and it is signed, as I have already stated, by Colonel Jackson, the colonel commanding the regiment.

There was no objection, and the bill was laid aside to be reported to the House with a recommendation that it do pass.

MARY MULHOLLAND.

The next business on the Private Calendar was the bill (H. R. 3355) for the relief of Mary Mulholland.

The bill was read, as follows:

Be it enacted, etc., That the certificate of pension heretofore granted Mary Mulholland, No. 193403, dated September 19, 1881, be, and the same is hereby, approved and confirmed; and the Commissioner of Pensions is authorized and directed to restore the said Mary Mulholland to the pension-roll, and to pay her all arrearages of pension that have been heretofore withheld.

The amendment reported by the committee is as follows:

Strike out and insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll the name of Mary Mulholland, under certificate No. 193403."

The report (by Mr. LE FEVRE) was read, as follows:

Mary Mulholland is the stepmother of Robert Mulholland, of the One hundred and eighty-third Ohio Volunteer Infantry, and had the entire care, custody, and control of said Robert from his infancy, and supported him, by her own hard labor, until he was grown to manhood, when he became her sole support until and at the time he enlisted in the Army, and thereafter until he was taken prisoner at Franklin, Tenn., and died in prison at Andersonville, Ga. She applied for a pension, which was granted to her, as the mother of said Robert, to whom she had always sustained that relation, and in the belief that she was entitled to such pension as the mother of said Robert. Her claim to pension was allowed and a certificate therefor was issued, but before it was delivered to her, the fact that she was a stepmother becoming known, the certificate was withheld.

That the claimant was dependent upon her own labor after the death of her husband, the soldier's father, in 1852; and that the stepson, as soon as he became old enough to earn a living, did aid very materially in the support of his stepmother, was clearly shown by the evidence originally in the case, and fully confirmed by the testimony taken by the special examiner in 1882.

The general pension laws, although providing for pension in case of mothers and other near relatives, who were dependent upon a soldier, exclude stepmothers, no matter how much they may have been dependent upon a soldier stepson, and therefore the action of the Pension Office in refusing a pension to the claimant was proper. But your committee are of opinion that in cases like the one under consideration the relief denied by the general law should be granted, and therefore report favorably on the bill, amended, however, by striking out all after the word "assembled," in line 2, and insert therein instead the following words: "That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-rolls the name of Mary Mulholland, under certificate 193403," and thus amended ask that it do pass.

The amendment was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

CHRISTIANA ALMIER.

The next business on the Private Calendar was the bill (H. R. 2538) granting a pension to Christiana Almier.

The bill is as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Christiana Eldermeier, mother of Frederick Eldermeier, deceased, late a member of Company I, Forty-ninth Regiment Ohio Volunteer Infantry.

The report (by Mr. LE FEVRE) is as follows:

The committee find that Christiana Almier is the mother of Frederick Almier, who was a private soldier in Company I, Forty-ninth Regiment Ohio Volunteer Infantry, and died January 17, 1875. The claim for pension in this case is "gunshot wound in right knee, received at the battle of Chickamauga, Ga., on September 19, 1863, and was finally discharged from the service June 29, 1864, by reason of said wounds."

The claim was rejected by the Pension Department on the ground that the soldier's death was not the result of gunshot wound for which he was pensioned, as alleged. The testimony is clear in this case that Frederick Almier was disabled to a pensionable degree, and as long as he lived he received a pension of \$4 a month. Frederick Almier enlisted August 26, 1861, and was discharged from the service June 29, 1864, by reason of wound received as stated.

The question is, did Frederick Almier die from the effects of the wound of knee received at Chickamauga, Ga.? The following affidavit of Dr. Anton Shiebnubzer, of Dayton, Ohio, made July 31, 1880, reads as follows:

"I am a practicing physician, and have been for fifteen years, and was well acquainted with Frederick Almier, late a private in Company I, of the Forty-ninth Regiment Ohio Volunteer Infantry. I attended him four months previous to his death, and found him suffering from disease of the spinal cord, caused by a gunshot wound through the right knee, effecting destruction of the nervus cruralis, and in consequence of the constant irritation of the scar chronic inflammation of this nerve and finally of the spinal cord, ending in the destruction of the vitality of this cord, and was, in my opinion, the only and last cause of the death of said Frederick Almier. I have no interest in the case, and am not concerned in its prosecution."

Christiana Almier has made several affidavits to the effect that her son was a strong, healthy man previous to enlistment, and there was no evidence of any other trouble, except his wound, at the time of his death. She is corroborated by many witnesses as to his condition previous to enlistment, and several express the non-professional opinion that nothing else could have been the matter at the time of his death but the wound received while in the service of the

United States. Dr. Anton Shiebenzuber is vouched for as being a man of excellent professional standing and personal reliability. Frederick W. Beck, on the 18th day of August, 1882, made affidavit as follows:

"In my business of undertaker I laid out the body of Frederick Almier preparatory to burial, and found that the right leg at the knee was very much swollen and of black and blue color. Further than that at this time the attending physician, Dr. Anton Shiebenzuber, said to me that the death of said Almier was caused by a gunshot wound of the knee received while in the service of the United States."

The testimony is clear that the claimant was entirely dependent upon her son for support, and is now very poor. There is no testimony to contradict the testimony of Dr. Anton Shiebenzuber, and all testimony is favorable to the claimant. The last examination of surgeons certifies that—

"Frederick Almier is totally disabled. Inflammation exists, with periodical swelling and constant pain, together with weakness of knee-joint, rendering him unable to perform manual labor."

Your committee recommend the passage of the accompanying bill, with the following amendments:

In lines 6 and 7 strike out the name "Eldromer" and insert "Almier."
Amend the title so as to read: "A bill granting a pension to Christiana Almier."

Mr. HEWITT, of Alabama. Mr. Chairman, I would like to ask the gentleman who reports this bill whether or not this soldier left a widow.

Mr. LE FEVRE. No, sir; he did not. It is his mother who seeks the relief here. There is no question on that point at all.

The CHAIRMAN. The question is on agreeing to the amendments recommended by the committee.

The amendments were agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ALONZO CORNWELL.

The next business on the Private Calendar was the bill (H. R. 7046) granting a pension to Alonzo Cornwell.

The bill is as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Alonzo Cornwell, late a private in Company F, Sixty-seventh Regiment Ohio Volunteer Infantry.

The report (by Mr. LE FEVRE) is as follows:

Your committee, having examined the evidence in above case, respectfully report that Alonzo Cornwell enlisted in Company F, Sixty-seventh Regiment Ohio Volunteer Infantry, October 27, 1861, and was discharged July 21, 1862, on surgeon's certificate of general debility of three months' duration, following typhoid fever, "with no prospect of recovery."

The claim for pension in this case is—

"That on or about February 15, 1862, while on the march up the Shenandoah Valley, Virginia, he was disabled by reason of ruptured veins of both legs below the knees; also by exposure and wading the Little Cacapon River, Virginia, he contracted rheumatism and chronic diarrhea, from which he has ever since been disabled."

The claim was rejected by the Pension Department on the ground that "no disability from alleged causes exists."

After examining the testimony carefully your committee is at a loss to understand how the department arrived at the conclusion that no disability exists.

Mrs. Elizabeth Cornwell, of Toledo, Ohio, May 22, 1882, testified as follows: "I have been well and intimately acquainted with claimant for the past fifty-eight years. I well know that at the date of his enlistment he was a sound and healthy man, and free from varicose veins, rheumatism, and diarrhea; did all kinds of manual labor. I raised the claimant from a mere child to manhood."

Mrs. Harriet J. Johnson, of Toledo, Ohio, November 29, testified: "I knew the claimant for about fifteen years prior to his enlistment; he worked for me and I paid him \$20 per month, and I know that at the date of his enlistment he was a sound and hearty man."

Dewitt C. Dewey, of Toledo, Ohio, November 29, 1882, testified:

"Forten or fifteen years prior to his enlistment the claimant was a near neighbor of mine. I saw him very often, and considered him a sound, hearty man, free from the diseases for which he claims pension."

The same witness, Dewitt C. Dewey, in another affidavit, testifies:

"I know from personal observation, being captain of Company E, Sixty-seventh Regiment Ohio Volunteer Infantry, that while the claimant was a member of said company, and in line of duty on a forced march from Pawpaw Tunnel and Winchester, he had to ford with the regiment the Little Cacapon River, and in consequence of his being heated at the time and immersion in cold water, I believe he contracted rheumatism and varicose veins, because he was unable to march farther, and was conveyed to a hospital at Cumberland, Md., and remained there one month, after which he was sent to Mount Pleasant Hospital, Washington, D. C. About June 19, 1862, I observed varicose veins on his legs before he was transferred to the Mount Pleasant Hospital."

The above witness is vouched for as reliable and worthy of credit.

Two more reliable witnesses testify to claimant's soundness prior to enlistment. S. F. Forbes, surgeon of the Sixty-seventh Regiment Ohio Volunteer Infantry, states that claimant has had varicose veins, but can not swear that the trouble was contracted while in the service. W. H. Kief, captain in the Sixty-seventh Ohio Volunteer Infantry, in an affidavit made May 22, 1882, corroborates the testimony of Captain Dewitt C. Dewey.

Harriet J. Johnson, Dewitt C. Dewey, and Elizabeth Cornwell all testify to the existence of rheumatism and varicose veins ever since claimant's discharge from the Army.

Examining Surgeons J. S. Beck, J. M. Weaver, and A. S. Dunlap certify under date of January 23, 1884:

"The deep veins on both legs from knees to feet are very considerably enlarged. The internal saphenous vein has been ruptured, as indicated by a deep purple tint; rate, three-quarters, 86. Says he has no chronic diarrhea now; has had none since the summer of 1865."

The testimony as quoted seems to your committee sufficient to establish the claimant's case. The testimony is abundant as to his having been a sound man previous to enlistment. The witnesses to his disability (having originated while in the service) are not numerous, but very respectable and worthy of credit, while the testimony of his helplessness from date of discharge to the present time is perfectly conclusive.

Therefore your committee without hesitation recommend the passage of the bill.

Mr. HEWITT, of Alabama. Mr. Chairman, I would like to ask the gentleman reporting this bill when the application for a pension in this case was filed in the Pension Bureau?

Mr. LE FEVRE. I do not remember; perhaps my colleague [Mr. MURRAY] can give you the information.

Mr. HEWITT, of Alabama. I would like to know if it is of recent date?

Mr. MURRAY. It is of old standing. I can not give the exact date.

Mr. HEWITT, of Alabama. I would like to ask the gentleman making the report another question, whether these affidavits are *ex parte*, or whether the testimony was taken before a special examiner?

Mr. LE FEVRE. Part of it was taken before a special examiner and part of it *ex parte* testimony.

Mr. HEWITT, of Alabama. Then they are mere *ex parte* affidavits. Was any new testimony or any additional testimony taken before the committee that was not before the examiners of the Pension Bureau?

Mr. LE FEVRE. Mr. Chairman, these affidavits were taken in the usual way, as all the affidavits that are filed in the Pension Office are taken. There is no difference in that respect between this case and all other cases filed in that office.

Mr. HEWITT, of Alabama. This case, I suppose then, was rejected by the Pension Bureau on the ground that the proof did not support the allegations in the claim, and this is simply an appeal from the Pension Bureau to Congress. That being the case, if we pass this bill it is a reversal simply of the decision of the examiners in the Pension Bureau. It amounts to that and that only.

Mr. MURRAY. I would like to state, by way of explanation, that notwithstanding the decision of the Pension Department, the examining surgeons, Weaver and Beck, of Dayton, testify that the disability on the part of this claimant is fully three-fourths, and reputable witnesses have testified that the disease from which he suffers did not exist until after he went into the service. They are very reliable witnesses.

Mr. HEWITT, of Alabama. I would like to ask the gentleman if he knows of his own personal knowledge as to their reputation?

Mr. MURRAY. I know the person who makes the claim and many of the witnesses; not all of them.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

JOHN HAZLEWOOD.

The next business on the Private Calendar was the bill (H. R. 6596) granting a pension to John Hazlewood.

The bill is as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Hazlewood, late a private in Company F, Seventh Regiment West Virginia Cavalry.

The report (by Mr. LE FEVRE) is as follows:

Your committee, having carefully considered this case, find that John Hazlewood enlisted in Company F, Seventh Regiment of West Virginia Cavalry, September 17, 1861, and was discharged from the service January 26, 1865. The claim for pension is that he "contracted piles at New Creek, Va., about May 15, 1862, and asthma at Culpeper, Va., about July 20, 1862."

The claim was rejected by the Pension Department on the ground of "inability to furnish medical evidence to show condition in the service or at date of discharge." It is true that he has been unable to furnish medical evidence of treatment for his disabilities while in the Army, because his regimental surgeon, Dr. James Putney, who treated him, has no record of said treatment, and can not remember the facts, but he does state the following, which dates the existence of the disease for which claimant asks for pension to within six months of the date of the discharge:

"Mr. John Hazlewood presented himself to me for medical treatment in July, 1865. I diagnosed his disease 'humoral asthma'; he had been but recently discharged from the United States service, and informed me, upon inquiry, that he had been affected for several months; that he had contracted the disease while in the service. I had no doubt as to the truth of his statement, as the disease appeared to be chronic, which has proven to be so, not having yielded to any treatment from that time to the present (February 12, 1878). He tells me that I ought to be able to state that he was sound when he entered the service; that I knew him before the war. Perhaps I did, but I can not remember him prior to July, 1865. I have treated him several times since then."

Thomas Martin, Joseph Quenby, and Darius Henry, all neighbors, testify under oath that John Hazlewood was a sound and able-bodied man prior to and at the date of enlistment. John McComb, late first lieutenant of the claimant's company, under oath, May 29, 1876, says:

"Claimant contracted asthma at or near Culpeper, Va., about the middle of July, 1862, and frequently complained of being unwell."

Fletcher C. Lanham, second lieutenant of claimant's company, under oath, November 5, 1875, testifies that claimant—

"Contracted piles near New Creek, Va., in May, 1862, and asthma in July, 1862."

Thomas J. Tucker, corporal in claimant's company, says that—

"Claimant contracted piles at or near New Creek, Va., about the middle of May, 1862, and asthma in July, 1862."

Robert W. Jones, first sergeant of claimant's company, under oath, November 15, 1877, says:

"Claimant contracted piles at or near New Castle, Va., and asthma at Culpeper, Va., in the year 1862."

Thomas Martin, Dr. A. L. Knight, Darius Henry, and Joseph Quenby, in separate affidavits, all testify that claimant has suffered from asthma and piles ever since he came home from the Army.

The examining surgeon says:

"Hemorrhoids are found protruding from anus in masses equal in the aggregate to the size of a hen-egg, and presenting the appearance of a ripe raw tomato. The evidences of asthma are well marked, the breathing being labored and accompanied by moist râles. I rate the piles as disabling him one-half total, the asthma as disabling him one-half total."

In view of the fact that three neighbors testify to the complete soundness of the claimant previous to enlistment, the first lieutenant, second lieutenant, first sergeant, and a corporal all swearing to the fact that the diseases from which

the claimant suffers were contracted while in the Army, with time and place stated; the surgeon, six months after discharge of the claimant, testifying to the existence of the disease in a chronic form, and four neighbors swearing to the existence of the disease from the time of leaving the service to the present time, ought to be, in the judgment of your committee, sufficient to overcome the fact that the claimant has been unable to furnish medical testimony of the existence of disability while in the service, and your committee recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

R. D. LAWRENCE.

The next business on the Private Calendar was the bill (H. R. 6196) granting a pension to R. D. Lawrence.

The bill is as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of R. D. Lawrence, late a private in Company E, First Regiment Michigan Light Artillery, subject to the provisions and limitations of the pension laws.

The report (by Mr. LE FEVRE) is as follows:

Your committee, having under consideration the bill H. R. 6196, respectfully report that R. D. Lawrence was a private soldier in Company E, First Regiment Michigan Light Artillery. He enlisted December 24, 1863, and was discharged May 20, 1865. The basis of his claim for pension is that he was attacked by lumbago and piles while at Nashville, Tenn. After the original declaration was made he stated that he did not intend to apply for pension on account of lumbago, but that he had the disease and was much distressed in the back on entering the hospital, but when the piles appeared and bled the lumbago disappeared. The claim was rejected by the Pension Department on the ground that—

"There is no record of piles, and claimant's inability to furnish satisfactory testimony connecting said disease with the service."

The report of the Adjutant-General shows that the claimant was in hospital three times in the year 1864, but does not state with what disease he was afflicted, but the report shows that he was in hospital most of the time after first admission, in 1864, to May 20, 1865.

Sanford Birtz, a comrade, testifies to claimant's soundness prior to enlistment. He is unable to furnish the testimony of a commissioned officer as to the origin of his disability while in the service, but he does furnish the testimony of Surgeon Myers, who was in charge of post hospital, Nashville, Tenn., to the effect that—

"Claimant had charge of the linen-room of said hospital, and conducted his duty as faithfully as his condition would permit, as during that time he was suffering from lumbago, from which he had not recovered at the date of his discharge."

John H. Evans swears, July 21, 1882—

"That he is well acquainted with the claimant, and in 1866 he came to his brother's house quite sick with piles, for which he was attended by Dr. Hycoff for some time, and then went to Buffalo general hospital, and was still suffering from the same disease when he left the hospital. Was a great sufferer from piles while he knew him in 1866."

The standing of this witness is good.

The claimant has been unable to furnish medical testimony showing continuance of the disease from 1866 because his parents are dead, as is also his family physician. August Mellon testifies that he has been acquainted with the claimant during the past sixteen years, and swears that he has been afflicted with piles during the whole time. Dr. J. L. Bicknell, superintendent of the Buffalo general hospital, furnishes a certificate, dated March 26, 1879, in which he says:

"According to our hospital record, R. D. Lawrence entered the Buffalo general hospital April 18, 1866, was treated for triple lesions and for hemorrhoids, and was honorably discharged May 15, 1866. He again entered the hospital August 20, 1867, and was discharged the 27th of the same month. Treated for hemorrhoids."

The surgeon at the hospital at the National Military Home, Dayton, Ohio, says that the claimant was admitted for treatment August 30, 1867.

The examining surgeons, Drs. J. S. Beck, H. S. Jewett, and A. S. Dunlap, at Dayton, Ohio, December 29, 1880, report that—

"He has hemorrhoids external; they come down very badly and bleed profusely at times. They are now down, forming an external tumor about the size of a walnut. There are now also two small fistulous openings that discharge slightly."

There seems to be no room for doubt but that the claimant has been a constant sufferer from the time of his being in the service down to the present time with the disease for which he claims a pension, and your committee recommend the passage of the accompanying bill.

Mr. HEWITT, of Alabama. Mr. Chairman, this is another case that has been rejected by the Pension Bureau upon the ground that the testimony which was filed there did not support the allegations of the petition, and there is nothing in the report to show that any additional testimony was brought before the committee of this House.

It seems from this report that this soldier was considerable of a "hospital rat," and that he had spent most of his time in the hospitals. We all know that this class of soldiers was not the best in the world, and I think we had better pass this over.

Mr. BAGLEY. In reply to the suggestion of the gentleman from Alabama in reference to this and the preceding case to which objection was made by the office, I wish to state that every case that comes down to the Committee on Invalid Pensions is a case that has been rejected by the Pension Office. We do not pretend to examine a case unless it has been rejected. Therefore the claim that he makes against this case and the preceding one is not good. If it was a good case, or if the proof complied with the technical requirements of the law, it would not come to us at all. It comes to us simply because of the fact that there is some little discrepancy in the case or in the evidence whereby the law does not reach it—some technical defect perhaps in the proof which does not allow it to come strictly within the provisions of the law so as to be allowed by the Department; and it comes here upon its equities for us to do justice to the man on the merits of the claim irrespective of the technicalities of the law. And the gentleman from Alabama must remember that these cases must be rejected by the office before the Committee on Invalid Pensions could take any control of them or have any cognizance whatever of them.

Mr. HEWITT, of Alabama. If Congress is to investigate all these cases that have been rejected by the Pension Bureau, it will take pretty much all the time of Congress to do it. We have seen proper and I think very wisely to create a bureau with officers and with capable men to examine into all these claims for pensions upon the facts that are presented; and I believe, sir, that they are better capable of judging of the facts submitted—I mean they have a better opportunity of judging—I do not mean to say they are abler men or more capable of judging of the effect or of the weight of evidence than members of the House; but I say they have a better opportunity to do it than we have, a better opportunity than the House can possibly have or any member of the Committee on Invalid Pensions or of the Committee on Pensions or of any other committee of this House.

Mr. BROWN, of Pennsylvania. May I ask the gentleman a question?

Mr. HEWITT, of Alabama. I am always ready to yield with pleasure to my friend from Pennsylvania.

Mr. BROWN, of Pennsylvania. What the gentleman states is very true as to the law of the case. But the Pension Office has not the power of examining into the equities of a case unless they are covered by the law.

Mr. HEWITT, of Alabama. I am not speaking now of cases that present equities. There are cases that come from the Pension Bureau here that are proper cases for us to consider. Those are cases that are rejected there on technical grounds; not on the ground that the evidence does not support the application, not on the ground that the man did not contract the disease or receive the wound in the service; but on some technical ground as to the bar of the statute of limitation or something of that sort. Such a case presents an equity, and the House ought to hear it.

But this is a mere appeal presenting no equities. It is only a question as to whether this soldier contracted in the service the disease which disables him; and that is a question which I say the bureau which we have established here can better inquire into than any committee of this House or any member of it. And when the claim is rejected upon the merits by the Pension Bureau I contend that that ought to be an end of it; because if all those cases which have been rejected upon the merits are to come here, there will be no end to your special legislation upon these pension claims. At the same time I think it is right and proper that where a claim is rejected not upon its merits but upon some technical ground then the House ought to take jurisdiction, and if it presents a meritorious case that the House ought to pass the bill.

Mr. MURRAY. Mr. Chairman, I examined this case very carefully. It is true there was not much testimony showing that the claimant was disabled in the service simply because he had no hospital record. But the testimony is clear, dating from early in the year 1866, that he was afflicted with the disability for which he claims a pension, and from that time down to the date of the filing or rejection of his claim there is no question of the existence of the disability. It seemed to me to be a clear case that this man was entitled to a pension, though he was unable to furnish the technical evidence that was required by the Department.

Mr. HEWITT, of Alabama. The only evidence required by the Department is not technical. All the Department asks for is satisfactory evidence that the soldier had received his disability in the line of duty and in the service; and when that is proven, when that is satisfactorily proven, it is the duty of the Pension Bureau to grant a pension.

Mr. BAGLEY. May I ask the gentleman from Alabama one question?

Mr. HEWITT, of Alabama. Yes, sir.

Mr. BAGLEY. Is the gentleman from Alabama not aware of this fact, that frequently cases are sent here to the Committee on Invalid Pensions for consideration or adjudication that have been rejected by the Pension Office, with the recommendation that a bill be passed for the relief of the claimant.

Mr. HEWITT, of Alabama. Yes, sir; and every one of those cases has been rejected on some technical ground. They are never sent here when they are tried upon their merits; when the Pension Bureau has full jurisdiction to try a case upon its merits, and when it has tried it upon its merits and rejected it upon its merits. It is only in those cases where the claim has been rejected upon some technical ground that there is any such recommendation as the gentleman from New York alludes to.

Mr. MATSON. I desire to ask the gentleman from Alabama a question.

Mr. HEWITT, of Alabama. I will hear the question with pleasure.

Mr. MATSON. The gentleman from Alabama states to the House that the Pension Office only requires satisfactory evidence of the allegations filed with the claim. I wish to ask him if he does not know that two kinds of evidence are required, the evidence of the comrades of the soldier and then the evidence of medical treatment in the service or immediately after the discharge; and that sometimes that kind of evidence is very difficult to obtain? Does the gentleman not know that we have acted upon such cases repeatedly? I may ask, making

the question broader than that, if he does not know in his experience in Congress, covering ten years I believe, whether during that time it has not been the habit of the House to act upon cases of that kind where the only question turned upon the merits of the case because of the man's failure to produce certain kinds of proof required by the law?

Mr. HEWITT, of Alabama. I answer my friend from Indiana by saying that the Pension Bureau requires medical evidence of a disability in the service where it can be furnished or satisfactory reasons showing why it can not be furnished. I admit that we have been here for years taking up cases that are mere appeals from the Pension Bureau to the House upon the merits of the cases involved. I think we have been doing that ever since I have been in Congress. But it is a bad practice, and I think it is time to quit it. It is never too late to stop doing wrong.

Mr. CUTCHEON. Mr. Chairman, I desire to call the attention of the gentleman from Alabama [Mr. HEWITT] to the fact that this case has been rejected at the Pension Office for a technical reason—the want of medical testimony as to the treatment of this man in the hospital for hemorrhoids and lumbago. That this man was in the hospital repeatedly, and for a considerable length of time with some disease, there is no doubt. From his own testimony there is no doubt that he was suffering from lumbago and hemorrhoids; but upon the hospital records it is not shown that he was treated for hemorrhoids, and for this reason, as the disability for which he claims a pension is hemorrhoids, this case was rejected.

Now that is a purely technical rejection. It is not denied that he was sick; it is not denied that he was in the hospital. The proof is here—competent proof that would be good in any court of record anywhere under heaven—that this man had hemorrhoids, that he contracted this disease in the Army, suffered from it after his discharge, and has suffered from it ever since. The bare technical reason for the rejection of his claim in the Pension Office is that there is no written record of his having been treated for this disease while in the service. The surgeon of the hospital neglected to do his duty and make a written record that this man was suffering from hemorrhoids and was treated for that disease in the hospital.

Right here I want to make a remark or two in regard to these rejections of claims at the Pension Office. We talk a great deal here as though these rejections were made by the Commissioner in person or by some officer high in authority, when the simple truth is that in ninety-nine cases out of a hundred the Commissioner never knows anything about these rejected cases or the reasons for which they are rejected.

Mr. HEWITT, of Alabama. Does not the law allow in every case where a case is rejected an appeal—

Mr. CUTCHEON. Yes, sir; and an appeal to the Commissioner of Pensions and an appeal to the Secretary of the Interior.

Mr. FUNSTON. And an appeal to Congress.

Mr. CUTCHEON. Yes; and an appeal to Congress. But there is nothing in this case, there is nothing in any of these cases we have been considering, from which it appears that the case ever went beyond the examiner. The cases as a rule go simply to an examiner in the Pension Bureau. These examiners are not men of legal learning; they are not accustomed by previous training to weighing evidence and determining questions of law. They are simply clerks; that is all; and I undertake to say from my experience and observation that many of them are more anxious to run through a list of cases and make a record upon the number of cases they submit than they are to do justice to the claimants.

Mr. BROWN, of Pennsylvania. Is it not true also that they are advised on account of—

Mr. CUTCHEON. On account of the number of cases they submit.

Mr. BROWN, of Pennsylvania. And the objections they find to claims.

Mr. CUTCHEON. Yes, sir. The result is, as I said, that many of these examiners, I fear, are more anxious to "skin the files," as they call it, picking out the easy cases and running them through, and thus "making a record" for themselves, than they are to do justice to claimants.

I want to say that I have a great deal of confidence in these fifteen gentlemen constituting the Committee on Invalid Pensions. I believe they are equal in soundness of judgment not only to any one examiner of the Pension Office, but to any fifteen examiners, and equal in soundness of judgment to any board of review in the Pension Office. Now, when a case comes from this committee with a favorable recommendation, that recommendation is sufficient in any ordinary case to satisfy me that the bill should have the approval of this House.

In this case the objection of the gentleman from Alabama has no force. This is not an appeal simply upon the weight of evidence; it is an appeal "upon a technical ground." This case was rejected at the Pension Office for want of medical evidence of the treatment of this man in the hospital for hemorrhoids. The evidence is submitted here. It is competent evidence, although not technical medical evidence. In other words, it is not "record evidence." It is not written in the hos-

pital register by the surgeon in charge that this man was treated for hemorrhoids. Yet there does not remain in your mind, Mr. Chairman, or in my mind, or in the mind of any gentleman on this floor, a doubt that this man was in the hospital with hemorrhoids, was treated for that disease, and that the surgeon in charge, whoever he may have been, failed to do his duty in making the necessary report. That wrong we are here to right. That wrong I hope we shall right, and right it speedily.

Mr. HEWITT, of Alabama. Mr. Chairman, I am very sorry to hear the serious charges made by the gentleman from Michigan [Mr. CUTCHEON] against the examiners in the Pension Bureau. I had hoped that when Mr. Cleveland shall come into office these men, under the civil-service regulations, might be continued in office; but if they have been doing as the gentleman from Michigan states, they ought to be turned out and better men put in their places. [Laughter.]

Mr. CUTCHEON. Some of them.

Mr. HEWITT, of Alabama. Now, I am sorry indeed to hear that under the Republican administration of the Pension Bureau men are there who in order to make a record of running through a great many cases reject meritorious pension claims.

I have confidence that when a change of administration takes place in that Pension Bureau all these men, if these charges be true, will then under the civil-service law be turned out and men put in their places who will do the soldiers of this country justice; who will give to every soldier who has a meritorious claim proper consideration; who will carefully examine to see whether a case is meritorious and the party entitled to a pension under the law.

Mr. Chairman, in all the charges which have been brought against the Republican party and its administration I have never heard a more serious one than that which has been made here to-night by the gentleman from Michigan, that the professed friends of the Union soldier who have had the administration of this Pension Bureau so long have done as he has indicated. It must be that he is in error; for I think that if such had been the case and the gentleman from Michigan had known of it he would have brought the fact to the notice of the Executive, who had the power to remove these unfaithful—I would say wicked servants, who would do such gross injustice to the soldiers of this country.

Mr. CUTCHEON. Mr. Chairman, I desire not to take up the time of this committee by prolonging this discussion, because we can do much more good by continuing the work of passing bills and relieving much distress. If I had supposed I would open the flood-gates of party harangue by reference to the fact that not every one of the 1,500 clerks engaged in the Pension Office is always faithful to the dictates of patriotism and reason I would have made no such allusion. I merely stated that in my examination of the files I had been led to believe that some of these examiners did neglect cases in order to make a record and secure promotion. I trust if any of these men are caught at it either the present administration or the succeeding one will find better or more faithful men for their places. I beg my friend from Alabama to remember that in the civil-service organization of the last two years quite a number of Democrats have stolen into places in this Pension Bureau, and that will probably explain the fact there are some unfaithful men there. [Laughter and applause.]

Mr. O'NEILL, of Missouri. The gentleman from Michigan is correct, for if any Democrats have gotten in there they must have stolen their way into the Pension Bureau. [Laughter and applause.] I do not know but it is the only thing a Democrat would steal. [Renewed laughter.] It is probably about all they will have the opportunity to steal when your party goes out of office. [Laughter and applause.]

I do not know, sir, but there will be some benefit from turning this session into a kind of experience meeting in regard to our efforts to secure for pensioners substantial justice from the Pension Department. It may be that the laws are too rigid, that the requirements in the collection of claims are too severe, but in the operations of the law as administered by that department I have myself found many instances where the barrier set up against the collection of claims against the Government resulted in the most flagrant wrong to claimants, whereby justice had been so long delayed that before they received the slightest benefit at the hands of the Government which they had helped to save great suffering resulted to them and their families.

I hold in my hand a paper received to-day in regard to a man who has been an applicant for a pension in consequence of injuries received in the service prior to 1860—an application which has gone through all the various rounds of rejection, having the rejection set aside and new testimony offered, &c. I have followed it up regularly for the reason that the poor, unfortunate fellow is blind; has a wife and children living in a cellar in Oak street, in Kansas City. I went to the department recently and appealed to them to try to do something for this poor fellow, who has been seeking a pension for years. He had forwarded the testimony of his comrades and others concerning the origin of his disability and its continuance, ample, I think, to have satisfied a court. It may be he did not comply with some technical rule, but I would give any officer more credit for integrity who would ignore rules in the

interest of substantial justice to a man who is suffering as this poor fellow is. Let me read the letter:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., January 7, 1885.

SIR: In answer to your personal inquiry of recent date, I have the honor to state that it has been found necessary to have pension claim No. 20971 of John Tobin further examined in Salt Lake County, Utah, the first examination not containing evidence sufficient to fairly and intelligently adjudicate the claim.

This is to be regretted, but as soon as examiner is located in that district the papers will be forwarded to him and the examination of this claim will be made without any unnecessary delay.

Very respectfully,

O. P. G. CLARKE, Commissioner.

Hon. J. J. O'NEILL,
House of Representatives.

After a delay of years it is now referred to a blank district without a commissioner whose appointment and consideration of the papers remain a conundrum for the future. What a beautiful example of circumlocution!

Mr. BROWN, of Pennsylvania. I would like to ask the gentleman a question.

Mr. O'NEILL, of Missouri. And this, sir, too, after many years of effort to complete the case.

I will hear the question of the gentleman with pleasure.

Mr. BROWN, of Pennsylvania. I only wanted to ask what is the number of the report in your case.

Mr. O'NEILL, of Missouri. My dear sir, I am replying to the speech of the gentleman from Alabama in connection with the remarks of the gentleman from Michigan. It is in that spirit I am replying. I do not choose to find fault with the officers of the department; but if they find that public sentiment and public opinion do not indorse their cold-blooded construction of rules and demand a little more heart and soul in the settlement of these claims, you would have fewer cases here to be subjected to criticism and discussion both in the committees and in this House.

Mr. WARNER, of Ohio. Mr. Chairman, a few words in reference to the question of evidence in the settlement of these claims pending before the House. I agree to a certain extent with the remarks of the gentleman from Alabama, that in general cases coming here should be limited to those where there are technical difficulties in the Pension Office in the application of the law which prevent the granting of the claim. But it should not be forgotten that in a case like this now before us in the Pension Office the claimant must prove in the first place that his disability was incurred in the service at a particular time and under particular circumstances, and also that it has continued as a disability down to the date of the application, connecting his present disability all the way back to the service, and then if his claim is allowed it carries arrears with it.

I am in favor myself of a regulation, or rather of a relaxation, of the rules of evidence in cases where arrears are not granted, as in special acts of Congress. If the claim does not carry arrears it should not be subject to the same restrictions, in my opinion, that are thrown around those applications where arrears follow. So in cases that come here to the House—a bill that passes Congress does not carry arrears with it, and consequently the same testimony, the same rigid, inflexible rule that is required in the Pension Office in cases that do carry arrears ought not to govern here. I think that many cases may be allowed on evidence here in the House that could not be allowed rightly in the Pension Office, where, if allowed, arrears would follow. [Cries of "Vote!" "Vote!"]

Mr. WOLFORD. Mr. Chairman, I only want to say a few words in relation to this matter. I submit to gentlemen on this floor the question as to whether this is a court or a Congress. If it is a court, then we ought to be, and must be, very particular in construing the law, as well as the rules of evidence, but if it is the Congress of the United States, for the purpose of passing laws, a body which has power to frame laws for the relief of the wronged and injured citizen, I care not whether he has been wronged by the ignorance, the carelessness, the hurry, the error, or in any other way by the officers of the Government, whether it be through their mistakes, the mistakes of a pure and honest man, or through the carelessness of incompetent men, then this is the body to right the wrong. The best men, sir, in the world and the purest judges have erred. Error is common to all men; none are free from it.

Now, all men have the right to come to the Congress of the United States by petition for the redress of grievances. That is the constitutional prerogative. Surely there is not a man in this House who would for a moment think of depriving a worthy, honest, wounded, or sick soldier, that got his wound or contracted his disease in the service of the country, of a pension, if he can not get it and has not gotten it through the channels provided by the law when it is right and proper for him to have it. I care not for the civil service of the Government; I care not who rejected it, whether it was a clerk in the office or the Commissioner himself; whether it was examined and rejected by the purest and wisest and best man on the earth, or whether it was an ignoramus who did it; if he has been wronged then this Congress in their wisdom, when justice and equity demand it, should come forward and

rectify the wrong. They ought to be estopped from setting up the plea that the man is not entitled to it if his wound was received or his disease was contracted in the service of the country.

Now, sir, I appeal to my friend from Alabama if there is anything in this case, regarding it by the strictest rule, which under that law of justice to all would enable him to claim that this man should not be allowed by the law-making power the relief he seeks? I ask him if this body, the greatest body on earth, the Congress of the United States—for it ought to be if it is not one of the greatest bodies on earth—if this body can not take into consideration all of the facts and all of the circumstances and all the law, all the equities, in order to do justice to its citizens? If it can not, then it seems to me there ought to be an amendment to the Constitution, an amendment to enable us to act as the American Congress ought to act.

Let us consider for a moment. What are we doing here to-night? Are we adjudging about laws that have been enacted? The Pension Department ought to do that. They are the judges of the law; but when we come to make laws, I am sure my warm-hearted friend from Alabama will not insist upon applying the strict rules of testimony to the case of a poor disabled soldier to preclude him from his rights. Then if it is right for the applicant to be pensioned, the bill ought to be passed without hesitation. I am tired, sir, of hearing in Congress this idea of acting according to rules and precedents. We need no precedent. We rise higher than all precedents. All the equities of the law, all the facts, all the justice, and all of the mercy belong to us, and it becomes us to act in the premises as men possessed of their attributes.

I hope we will not seek for precedents in such cases, but that we will act as becomes patriots and lawmakers in the premises. [Applause.]

The CHAIRMAN. Without objection the bill will be laid aside to be reported to the House with the recommendation that it do pass.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. PETTIBONE rose.

The CHAIRMAN. For what purpose does the gentleman from Tennessee rise?

Mr. PETTIBONE. I ask to have a bill passed for the benefit of one of my constituents. It is the bill (H. R. 4626) for the relief of David N. Harrison. It is a case where a pension has been granted but the check has been destroyed or lost in the mail.

Mr. HEWITT, of Alabama. Is that bill reported by the Committee on Invalid Pensions?

The CHAIRMAN. What is the number of the bill?

Mr. PETTIBONE. It is bill H. R. 4626; report No. 1421.

Mr. BAGLEY. What committee reports the bill?

Mr. PETTIBONE. I hope the gentleman will not insist on asking that question.

The CHAIRMAN. What is the title of the bill?

Mr. PETTIBONE. It is "A bill for the relief of David N. Harrison." The gentleman from Missouri [Mr. DOUGERY] reported it. It will be found on page 41 of the Private Calendar.

The CHAIRMAN. The Chair will cause the special order of the House, governing the business of this evening, to be read.

The Clerk read as follows:

That until the further order of this House, on each Friday the House will take a recess at 5 o'clock until 8 p. m., at which evening sessions bills on the Private Calendar reported from the Committee on Pensions and the Committee on Invalid Pensions shall be considered.

Mr. PETTIBONE. I am quite well aware that that is the rule.

The CHAIRMAN. The Chair can not entertain the motion of the gentleman from Tennessee.

Mr. PETTIBONE. I hope common consent will be given to taking up this bill. This House by common consent is always equal to the occasion, and I want relief for this constituent.

The CHAIRMAN. The House is in Committee of the Whole under the special order which has been read, and it is the duty of the Chair to see that the special order of the House is not violated.

Mr. PETTIBONE. Then I have got to sit down. [Laughter.] I shall ask for unanimous consent of the House.

Mr. MATSON. I ask for the regular order.

The CHAIRMAN. The Clerk will report the next bill on the Calendar.

Mr. HOLMES. On last Friday evening the bill (H. R. 1981) was under consideration and was passed over for the evening. I ask unanimous consent that that bill be now taken up.

Mr. MATSON. We want to get through to the bottom of the page, and the committee can then take up other cases.

FRANCIS CURRAN.

The next business on the Private Calendar was the bill (H. R. 3751) granting a pension to Francis Curran.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Francis Curran, late a sergeant of Company E, Thirteenth Regiment of Indiana Volunteer Cavalry.

The report (by Mr. LE FEVRE) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3751) granting a pension to Francis Curran, submit the following report:

That Francis Curran enlisted in the Thirteenth Regiment Indiana Cavalry December 25, 1863, and was discharged from the Army November 18, 1865. His claim for pension is for sore eyes, resulting in total blindness, contracted at Huntsville, Ala., on picket duty, August 20, 1864.

The claim was rejected by the Pension Department on the ground that disability was contracted previous to enlistment in the Union service. The testimony shows that claimant first served in the rebel army. Your committee has been unable to find any satisfactory evidence that the claimant's eyes became diseased before joining the Union Army in December, 1863.

The Adjutant-General's report shows him present for duty most of the time while in the Union Army. The principal difficulty with the case is, that he was, previous to entering the United States Army, a soldier in the confederate army, and after being mustered out of the United States service, traveled through the South collecting charity, and used the following card in order to obtain assistance:

To a benevolent public:

The bearer of this, Francis Curran, having joined the confederate army at Senatobia, Miss., and as a good soldier served his time faithfully, having lost his eyesight while a prisoner of war at Louisville, Ky.

Sergeant Company B, Ninth Mississippi Regiment.

Any help will never be forgotten.

J. P. HOULIGHAN, Captain.
T. W. WHITE,
Colonel Ninth Mississippi Regiment.

The following testimony shows clearly that the statement that claimant lost his eyes while in the confederate service is not true.

Capt. Charles F. Bender, of Company E, Thirteenth Indiana Cavalry, states under oath that "claimant was sound in every respect at date of enlistment." Owen Maguire and John Tighe both state in separate affidavits—

"That they became acquainted with claimant about March, 1863, at New Albany, Ind., and said acquaintance continued until his enlistment, and they never knew him to complain of having sore eyes or being afflicted in any manner whatever, and always believed him sound in every respect."

Capt. C. F. Bender made oath in affidavit June 15, 1875:

"The claimant was attacked with disease of the eyes in line of duty on picket just near Huntsville about August 20, 1864."

Elisha Weakly, lieutenant of Company E, Thirteenth Regiment Indiana Volunteer Infantry, makes oath, under date of November 17, 1877:

"In the summer of 1865 I was doing provost duty near Columbus, Miss., and claimant was suffering from disease of the eyes during that time, which continued until the date of his discharge. He was a good and obedient soldier."

The following affidavit, signed by the surgeon of claimant's regiment, is sufficient to substantiate the loss of sight soon after leaving the United States service:

"NEW ORLEANS, September 3, 1872.

"I certify that the records of Charity Hospital, New Orleans, show that Francis Curran was admitted to this institution on the 19th day of March, 1866, and discharged the 11th day of June, 1866. He was suffering from total loss of sight."

A special examination conducted by Charles R. Connor, special agent, September 28, 1878, reads as follows:

"This is a very peculiar case, and I have been unable to find any satisfactory evidence that the claimant's eyes became diseased while he was in the confederate army. It is possible, but highly improbable, that his eyes were diseased at the time of his enlistment, December 25, 1863."

The fact that the claimant served in the confederate army ought not of itself to bar him from receiving a pension, and the testimony seems conclusive that he served faithfully nearly two years in the Army of the United States, and was been totally blind ever since his discharge.

The passage of the bill is recommended.

Mr. HEWITT, of Alabama. I desire to say just one word about this bill. It is proposed to give a pension of \$72 a month to an applicant who was at one time a confederate soldier.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

PATRICK MURPHY.

The next business on the Private Calendar was the bill (H. R. 7047) granting a pension to Patrick Murphy.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Patrick Murphy, late a private in the Second Independent Battery, Ohio Light Artillery.

Mr. HEWITT, of Alabama. I ask that the report be printed in the RECORD.

There was no objection, and it was so ordered.

The report (by Mr. LE FEVRE) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7047) granting a pension to Patrick Murphy, submit the following report:

The claimant in this case enlisted September 1, 1864, as a private soldier in the Second Independent Battery, Ohio Light Artillery, and was discharged August 10, 1865. The claim for pension is that—

"While encamped at Carrollton, La., in the fall of 1864, he became afflicted with sore eyes, and after moving with the battery to Ship Island, in the Gulf, they became worse, attributable to the glare of the sun upon the sand; was also from time to time while on the island threatened with brain disease, and before his discharge had one or two fits."

The claim was rejected January 8, 1883, on the ground that there is—

"no medical evidence of origin of disease or existence at discharge, and claimant's inability to furnish satisfactory evidence of origin in the service and line of duty and continuance since discharge."

The claimant says he can not furnish the affidavit of a surgeon for treatment for sore eyes in the Army for the reason that—

"he was not treated by any physician while in the service, but that he was treated for said disease immediately after he returned from the Army, and has made every effort possible to procure testimony from the surgeon who treated him, but can not find him."

John B. and Mary Moore, of Conneaut, Ohio, testify to having—

"known the claimant for ten years before the war; that he boarded a large part of the time at their house; that he was a sound, healthy man, and that his eyes were in a sound and good condition."

Hiram J. and Stephen W. Marsh, of Conneaut, Ohio, comrades and members of the same battery with him, testify that—

"in February, 1865, at Ship Island, Mississippi, claimant contracted disease of eyes."

In an affidavit given June 13, 1882, John B. and Mary Ann Moore again testify that—

"at the time of his return from the Army, in 1865, his eyes were badly diseased and the right one almost completely lost; that they often saw him between 1865 and 1878, and during that time his eyes were badly diseased, and that he could do but little manual labor and was almost wholly dependent upon others for support."

Dr. A. H. Stephens makes affidavit that "claimant was admitted to the National Soldiers' Home, Dayton, Ohio, in February, 1878, with partial loss of sight from diseased retina, pulmonary phthisis, hemorrhage of lungs, and cough, and that he is partially blind, and is still under treatment there."

Fery Quinn and Thaddeus S. Young, neighbors in Conneaut, Ohio, both testify that "claimant was a sound, healthy man previous to enlistment," and Young, being in same battery with claimant, testifies that "claimant contracted inflamed and weak eyes while at Ship Island, Mississippi, and in the line of his duty;" and he remembers, in a general way, that there were others of the command afflicted in the same manner while at Ship Island.

Dr. L. P. Sturtevant, of Conneaut, Ohio, in affidavit made March 23, 1883, swears that he "attended claimant professionally in 1875 and 1876 for sore eyes; that they were weak and the sight nearly gone. The claimant said that the cause of his eyes being affected was the reflection of the sun's rays from the sand on Ship Island, Mississippi, while in the service; his disability was at the time of treatment such as to prevent his doing any manual labor."

John Gaffney, Mary Moore, and Maggie Trimble, of Conneaut, Ohio, all testify that they knew claimant previous to enlistment, and that he had no disease of eyes, and was able to do all kinds of manual labor done on a farm; they further state that upon his return home from the Army his eyes were badly inflamed and his sight greatly impaired, and from that time until his admission to the Soldiers' Home at Dayton he was so afflicted as not to be able to perform manual labor.

These witnesses last named are vouched for as being persons of credibility and integrity. The examining surgeons at Dayton certify as follows, under date of February 1, 1882:

"He has a catarrh of right eye and one partially formed in left eye. He can barely discern enough to get around the ward. He is disabled from all manual labor."

The testimony is sufficient as above given to lead your committee to the conviction that the claimant ought to have had a pension long ago, and the passage of the bill is cheerfully recommended.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

RUSSELL F. DIMMICK.

The next business on the Private Calendar was the bill (H. R. 6594) granting a pension to Russell F. Dimmick.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Russell F. Dimmick, late a private in Company E, First Regiment Wisconsin Volunteer Infantry.

The report (by Mr. LE FEVRE) was ordered to be printed in the RECORD. It is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6594) granting a pension to Russell F. Dimmick, submit the following report:

Your committee, having examined all the papers in this case, find that Russell F. Dimmick, the claimant, enlisted January 20, 1863, in Company E, First Regiment Wisconsin Volunteer Infantry, and was discharged June 15, 1865. The claim for pension is—

"That at Chickamauga, Tenn., September 19, 1863, he was struck in the right eye by a fragment of a shell."

In another declaration made December 24, 1877, he states:

"On the march from Nashville, Tenn., to Hoover's Gap, Tenn., from the middle of July to August 15, 1863, had his eyes continually filled with dust, which caused inflammation and injury of the optic nerve, also affecting the eyelids, which became granulated, all of which caused partial blindness of both eyes, the right eye being now almost totally blind, and the other gradually becoming so; that he was also hit with a splinter of a shell in the right eye at the battle of Chickamauga on the 19th day of September, 1863, which has also helped to cause the blindness as herein stated."

A pension in this claim was allowed by the Pension Department January 6, 1880, but was suspended September 4 of the same year. The pension was discontinued on the ground that the disability of the claimant existed previous to enlistment.

Philip Fay, under date of February 12, 1878, swore as follows:

"Have known the claimant for over twenty years—ever since he was a little boy. Never knew or heard of his eyesight being impaired prior to his enlistment in the Army."

Michael Malone, under date of February 12, 1884, also swore:

"Have known claimant nearly all his life, and never heard of his being troubled with any disease of his eyes."

Charles C. Kimball, late captain of Company E, First Wisconsin Volunteer Infantry, March 7, 1877, made oath as follows:

"The claimant was with me at the battle of Chickamauga, Tenn., September 19, 1863, and was there wounded in the eye with the splinter of a shell."

William Colter, late private Company E, First Wisconsin Volunteers, under date of February 12, 1878, makes oath:

"Claimant was disabled on the line of march from Nashville, Tenn., to Hoover's Gap, in 1863, by getting nearly blind in both eyes on account of dust and sand and a splinter of shell in his eye."

John Fitzgerald, under date of June 3, 1879, makes oath as follows:

"I know that claimant was disabled in eyesight on line of march to Hoover's Gap, from Nashville, Tenn., about July 2, 1863, by getting sand and dust in his eyes, and causing him to be sent back to hospital."

Benjamin F. Dieman, late private Company E, First Wisconsin Volunteer Infantry, under date of June 24, 1879, makes oath:

"Claimant got his eyes injured on the march from Nashville to Hoover's Gap, Tenn., in July, 1863, which was the cause of his being sent back to hospital."

Joseph Hoskin and D. C. McVean testify substantially as the last two affidavits.

Norman Barnes, Patrick Murphy, Dr. I. H. Stevens, and Michael Malone all testify to the condition of claimant's sight since discharge from the Army, and agree that the disability has existed continuously from the date of his discharge.

The surgeon's certificate of discharge, June 16, 1865, reads as follows:

"I find him incapable of performing the duties of a soldier because of loss of right eye, caused by explosion of another soldier's gun, and powder being blown into the eye, incurred while in the line of his duty as a soldier."

The statement of the surgeon seems to differ from the claim of Dimmick that he was hit by a splinter of a shell, but in the haste of making out such reports it is not strange that there should be a slight variance.

At a special examination, conducted in November, 1880, by James H. Clements, special agent, several witnesses swear that claimant had sore eyes previous to enlistment; but the fact remains abundantly proven that he was struck in the right eye with fragment of a shell. The examining surgeons certify that "he sees but little with right eye."

Considering all the testimony, your committee recommend the passage of the accompanying bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ORDER OF BUSINESS.

The CHAIRMAN. The Chair calls the attention of the gentleman from Indiana [Mr. MATSON] to the fact that the next bill on the Calendar, the bill (S. 315) granting a pension to William Reinhardt, has been returned to the Senate in accordance with their request.

Mr. MORRILL. I wish to state that the House bill for the benefit of the same person passed the Senate and became a law at the last session. I was to make the motion that the bill be reported with the recommendation that it do lie on the table; but if the bill is in the hands of the Senate, of course that motion can not be made.

The CHAIRMAN. The bill is not here.

Mr. MATSON. Under the circumstances I think it should go off the Calendar.

FREDERICK P. DEARTH.

Mr. MORRILL. I desire to call up a bill on page 49 of the Calendar, the bill (H. R. 7315) granting a pension to Frederick P. Dearth. Mr. Dearth is 81 years old, and is in the poor-house in one of the counties of my district. He gave his son to the cause of the Union. The son died at Corinth of typhoid fever. The old man is quite feeble, and it is hardly likely that he will be alive at another session of Congress. I ask the indulgence of the House to take up the bill and pass it that he may derive some benefit from it.

The bill (H. R. 7315) granting a pension to Frederick P. Dearth was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Frederick P. Dearth, dependent father of Edwin P. Dearth, late of the Fifty-second Illinois Volunteers.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7315) granting a pension to Frederick P. Dearth, submit the following report:

The claimant was the father of Edwin D. Dearth, a private in Company H, Fifty-second Regiment of Illinois Volunteers. The soldier enlisted September 24, 1861. He served faithfully until the battle of Corinth, October 3, 1863, when he was taken prisoner. Near the close of that month he was paroled and sent to Benton Barracks. The following March he was returned to his regiment, near Corinth, Miss., and on the 21st of August, 1863, he died in the military hospital of dysentery. The soldier's mother died in 1850. The trustee of Louisville Township, Pottawatomie County, testifies:

"That by virtue of his office he is overseer of the poor; that Frederick P. Dearth for more than one year past to date (May 29, 1883) has been a pauper and supported at the public expense; that I have been for several years acquainted with Mr. Dearth, and know him to be a worthy man; and that he has not property of any kind out of which he can support himself."

The claimant testifies that he had property to the value of \$200 when his son died; that he was in part dependent on his son for support, and that his son died leaving no wife or child. Claimant is now in his eighty-first year, old and decrepit, and unable to furnish the evidence required by the Pension Department showing his dependence on the soldier at the time of the latter's death.

While the evidence furnished establishes the facts stated above, they are not sufficient to justify the Pension Department in granting a pension, but it makes a case which Congress ought to act upon promptly by the immediate passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

DANIEL M'ALPIN.

Mr. PETERS. Mr. Chairman, I ask consent to make a statement. I met yesterday a soldier of the war of 1812, now 90 years old. I am satisfied that he can live but thirty or sixty days longer. A bill granting him a pension has been reported favorably by the Committee on Pensions, and is on page 52 of the Calendar. I ask the indulgence of the Committee of the Whole that his case may be taken up and passed to-night.

There being no objection, the Committee of the Whole House proceeded to the consideration of the bill (H. R. 7503) for the relief of Daniel McAlpin.

The bill was read, as follows:

Be it enacted, &c., That the charge of desertion against Daniel McAlpin, Sixteenth United States Infantry, war of 1812, be, and it is hereby, removed.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized to place on the pension-roll, subject to the rules and limitations of the pension laws, the name of Daniel McAlpin, formerly of the Sixteenth United States Infantry, war of 1812.

The report (by Mr. LAIRD) was read, as follows:

The Committee on Pensions, to whom was referred the bill for the relief of Daniel McAlpin, respectfully report:

The records show that Daniel McAlpin enlisted on the 25th day of May, 1814, in the Sixteenth United States Infantry, for five years, war of 1812. He was present for duty up to February 28, 1815. On the April rolls he is reported as having deserted March 15, 1815. His claim was rejected by the Pension Office on that ground. Claimant says that he enlisted for five years or the war; that the war being over in March, 1815, he applied for leave to go home to see his sick mother;

that his captain granted the furlough, and told him he could stay home until he called for him, and that he was never called upon, and had no knowledge that he was reported a deserter until he was so informed when he made his application for pension.

Your committee recommend that the charge of desertion be removed from this old soldier, and that he be allowed a pension for his few remaining years. They therefore offer a bill as a substitute for H. R. 6950, and recommend that it do pass.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

THOMAS SIMPSON.

Mr. MATSON. I have a request to make. I have received several letters from Indiana—one from a member of our State senate—in relation to the case of Thomas Simpson. The bill for his relief is on page 50 of the Calendar, having been reported favorably by the Committee on Invalid Pensions. This man is in extremely indigent circumstances, and relief in his case ought to be granted immediately. I ask unanimous consent that the bill be taken up out of its order and passed.

There being no objection, the Committee of the Whole House proceeded to the consideration of the bill (H. R. 1924) granting a pension to Thomas Simpson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Thomas Simpson, late a private in the Seventh Indiana Battery in the war of the rebellion.

The report (by Mr. MATSON) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1924) granting a pension to Thomas Simpson, late of the Seventh Indiana Battery, beg to offer the following report:

The claimant, Simpson, enlisted January 2, 1864, as a private in the Seventh Indiana Battery. At that time the evidence is conclusive that he was a strong and healthy man.

George C. Masterman, who was second lieutenant of the battery, testifies that on or about the 22d of July, 1864, at Atlanta, Ga., the battery was ordered into position; that the claimant, with others, was ordered in front of the battery to carry rails to build breastworks; while so engaged the order was given to fire; Simpson, not being aware of the order, came immediately in range of one of the guns, the concussion of the shell or the powder knocking him down, rendering him insensible for fifteen or twenty minutes, he being so close to the gun that his face was blackened by the powder; that after this occurrence he was never able to do full duty again during the remainder of his term of service; that before this he had always been able to do duty at all times.

Comrades Fletcher, Johnson, and Deford all testify substantially to the foregoing, saying they were present and witnessed the occurrence and that they can not be mistaken about it.

The evidence is that there was no surgeon with the battery regularly; that occasionally one would be detailed, but would remain only a short time. The records of the Surgeon-General's Office show that Simpson was admitted to general hospital at Jeffersonville, Ind., May 23, 1865, from New Albany, Ind., as convalescent (no other diagnosis), and returned to duty June 8, 1865. That the regimental records are not on file. Claimant was discharged July 13, 1865, under provisions of General Order No. 27, Department of Kentucky. His neighbors who were acquainted with him before he entered the service testify that since discharge he has not been able to perform labor for at least two-thirds to three-fourths of the time.

The claimant filed application for a pension in June, 1866, and alleged partial deafness and blindness. Also incapacity to do manual labor, caused by concussion. This has been rejected by the Pension Office for the reason that the medical examination does not disclose the fact that applicant was injured to the extent of preventing him from obtaining a living by manual labor. Against this, however, is the testimony of his neighbors, who all unite in saying that they knew him before he entered the service to be a strong, healthy man, and since discharge that he is a broken-down man and not able to do manual labor; that his injury has developed into epilepsy, and at the present time that he is totally incapacitated from earning a living by manual labor.

Your committee recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

RELIEF OF CERTAIN PENSIONERS.

Mr. HOLMES. I ask unanimous consent that the Committee of the Whole House take up for consideration out of its order the bill (H. R. 1981) for the relief of certain pensioners enrolled by special acts of Congress.

This bill applies to a small class of pensioners. It provides substantially that where a special act has been passed by Congress the Pension Office may increase the rate of pension if the disability has increased since the date of the passage of such special act.

Mr. HEWITT, of Alabama. I must object to the consideration of that bill, because it is not a private bill, but ought to be on the Public Calendar.

Mr. HOLMES. I will say to the gentleman from Alabama that if consent be given that the bill be taken up and favorably considered to-night in Committee of the Whole I will not press it to a vote in the House to-night, but it may go over to be voted upon by a full House.

Mr. HEWITT, of Alabama. Is it on the Private Calendar?

Mr. PERKINS. The order under which we are acting does not confine us to the Private Calendar.

Mr. CUTCHEON. But this bill is on the Private Calendar.

Mr. HEWITT, of Alabama. This, I understand, is a public bill, not a private bill. It applies to a class of pensioners. It is a general bill, and ought to be on the Public Calendar.

Mr. HOLMES. This bill has been placed by the Speaker of the House upon the Private Calendar; and I suppose he considered it a proper bill to be placed there. It relates to a small class of pensioners.

Mr. HEWITT, of Alabama. It may have gone to the Private Calendar because the attention of the Speaker was not called to the fact that it was not a private bill.

The CHAIRMAN. The Chair understands the gentleman from Alabama as objecting to the request of the gentleman from Iowa [Mr. HOLMES].

Mr. MATSON. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. McMILLIN having resumed the Chair as Speaker *pro tempore*, Mr. HATCH, of Missouri, reported that the Committee of the Whole House on the Private Calendar had had under consideration, pursuant to order, sundry bills on the Private Calendar reported by the Committee on Pensions and the Committee on Invalid Pensions, and had directed him to report the same back to the House with sundry recommendations.

The SPEAKER *pro tempore*. The Chair is informed there are two bills coming over from the session of last Friday night.

Mr. MATSON. I ask unanimous consent that they be passed over informally not losing their place.

There being no objection, it was so ordered.

BILLS PASSED.

The following bills reported from the Committee of the Whole House without amendment were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed.

- A bill (H. R. 7141) granting a pension to Daniel W. Adams;
- A bill (H. R. 6726) granting a pension to Margaret A. Maguire;
- A bill (H. R. 4266) granting a pension to Margaret A. Ringwalt;
- A bill (H. R. 6997) granting a pension to Henry Davis;
- A bill (H. R. 435) granting a pension to Samuel W. Tracey;
- A bill (H. R. 4021) granting a pension to Abraham Cover;
- A bill (H. R. 2377) granting a pension to James Stockton;
- A bill (H. R. 6692) granting a pension to David Whittington;
- A bill (H. R. 6904) for the relief of John F. Chase;
- A bill (H. R. 7046) granting a pension to Alonzo Cornwell;
- A bill (H. R. 6596) granting a pension to John Hazlewood;
- A bill (H. R. 6196) granting a pension to R. D. Lawrence;
- A bill (H. R. 3751) granting a pension to Francis Curran;
- A bill (H. R. 7047) granting a pension to Patrick Murphy;
- A bill (H. R. 6594) granting a pension to Russell F. Dimmick;
- A bill (H. R. 7315) granting a pension to Frederick P. Dearth;
- A bill (H. R. 7503) for the relief of Daniel McAlpin; and
- A bill (H. R. 1924) granting a pension to Thomas Simpson.

Amendments reported from the Committee of the Whole House to bills of the following titles were severally agreed to, and the bills as amended were respectively ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed:

- A bill (H. R. 3355) for the relief of Mary Mulholland; and
- A bill (H. R. 2538) granting a pension to Christiana Almer.

PLEASANT MINET.

A bill (H. R. 4751) granting a pension to Pleasant Minet, reported from the Committee of the Whole House with a recommendation that it lie on the table, was accordingly laid on the table.

Mr. MATSON moved to reconsider the various votes by which bills reported from the Committee of the Whole House were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. MATSON (at 10 o'clock and 25 minutes p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAGLEY: Papers relating to the claim of Frank G. Mix—to the Committee on War Claims.

By Mr. B. W. JONES: Petition and papers to accompany House bill 4954, for relief of Orin L. Dodd—to the same committee.

By Mr. BELMONT: Petition of J. J. Harris and 275 others, ship owners, builders, and residents of Port Jefferson, Suffolk County, New York, asking an appropriation for a harbor of refuge at Long Island Sound—to the Committee on Rivers and Harbors.

Also, petition of F. F. Darling and 64 others, citizens of Port Jefferson, Suffolk County, New York, asking an appropriation for a harbor of refuge at Long Island Sound—to the same committee.

By Mr. J. M. CAMPBELL: Petition of D. R. Smith, of Bedford County, Pennsylvania, and others, asking an increase in widows' pensions—to the Committee on Pensions.

By Mr. CURTIN: Petition of citizens of Forest County, Pennsylvania, asking an appropriation for improvement of navigation of Timesta Creek—to Committee on Rivers and Harbors.

By Mr. DUNHAM: Petition of vessel-owners and merchants of Chicago, favoring an increase of appropriations for the Signal Service work, so as to improve its efficiency—to the Committee on Appropriations.

By Mr. ENGLISH: Petition of merchants and business men of Indianapolis, Ind., against the passage of the pending bankrupt bill—to the Committee on the Judiciary.

By Mr. EVERHART: Petition of the Pennsylvania Club, praying for the passage of Senate bill 398, in aid of common schools—to the Committee on Education.

By Mr. ERMENTROUT: Petition of Hon. John C. Myers, for reimbursement of moneys expended by him while consul-general to Shanghai, China—to the Committee on Claims.

By Mr. EVERHART: Petition of Philadelphia Board of Trade, in favor of Lowell bankrupt bill—to the Committee on the Judiciary.

By Mr. GIBSON: Petition of Thomas Hutchinson and others, asking an increase in widows' pensions—to the Committee on Pensions.

By Mr. D. B. HENDERSON: Petition of Ellen M. Brown and others, of Buchanan County, Iowa, urging increase of widows' pensions—to the same committee.

By Mr. HENLEY: Petition of John J. Krieg, of California, praying for an investigation of the French and American Claims Commission—to the Committee on Foreign Affairs.

By Mr. HOPKINS: Memorial of James B. Hayden, relative to cholera in swine—to the Committee on Agriculture.

By Mr. HILL: Petition of Elizabeth Mallett and others, of Paulding County, Ohio, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. LYMAN: Memorial of Arnold A. Rand and Albert Ordway, relative to a collection of photographic negatives illustrating the war of the rebellion—to the Committee on Military Affairs.

By Mr. CHARLES O'NEILL: Memorial of the Pennsylvania Club, of Philadelphia, urging the passage of Senate bill 398, in aid of common schools—to the Committee on Education.

By Mr. SENEY: Resolutions of New York Tobacco Board of Trade, against the Spanish treaty—to Committee on Ways and Means.

By Mr. E. B. TAYLOR: Petitions of C. E. Williams and others, and also of Jane Barr and others, for increase of widows' pensions—to the Committee on Pensions.

By Mr. WORTHINGTON: Petition of Fanny Goodman and 39 others, for increase of widows' pensions—to the same committee.

By Mr. WILLIS: Petition of Maurice Power, for pension—to the Committee on Invalid Pensions.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. ARNOT: Of citizens of Steuben County, New York.

By Mr. BOUTELLE: Of Otis Martin and others, citizens of Guilford, Me.

By Mr. CANNON: Of Daniel Long and others, citizens of Urbana, Ill.

By Mr. FUNSTON: Of citizens of Memphis, Kans.

By Mr. GUENTHER: Of citizens of Lodi and of Briggsville, Wis.

By Mr. HORR: Of citizens of Saginaw County; of Montcalm County; of Henry W. Bancroft and others, citizens of Vestaburg; of J. M. D. Tucker and others, citizens of Howard City; of citizens of Gratiot, of South Saginaw, of Midland County, of Greenville, of Saginaw, of Byron; and of Andrew J. French and others, citizens of Saginaw, Mich.

By Mr. LOWRY: Of 100 citizens of Cromwell, Noble County, Indiana.

By Mr. POLAND: Of Joseph O. Freeman and others, of Waterbury, Vt.; and of E. W. Goddard and others, of Reading, Vt.

By Mr. PARKER: Of citizens of Edwards, N. Y.

By Mr. PAYNE: Of C. H. Wood and others, of Scipio, N. Y.

By Mr. PATTEN: Of citizens of Indiana County, Pennsylvania.

By Mr. SPRIGGS: Of citizens of Forestport, Oneida County, and of Camden, Oneida County, New York.

By Mr. VANCE: Of citizens of Polk County, North Carolina.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 10, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

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

ORDER OF BUSINESS.

Mr. RANDALL. Mr. Speaker, I call for the regular order of business, and move that the morning hour be dispensed with. My purpose is to go on with the naval appropriation bill.

Mr. STORM. I rise, Mr. Speaker, to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. STORM. At the adjournment of the House yesterday, or rather at the time of taking a recess, the yeas and nays were ordered on a substitute to a bill then pending for the relief of Capt. Nicholas J. Bigley. I desire to know whether that comes up this morning as the unfinished business.