By Mr. B. W. JONES: Petition and memorial of Milwaukee Chamber of Commerce, urging increased appropriations for the harbor of Ludington, Grand Haven, and Manistee, in the State of Michigan—to the Committee on Rivers and Harbors.

By Mr. KETCHAM: Petition of citizens of Wappinger's Falls, N. Y., asking for an increase in widows' pensions—to the Committee on Pensions.

By Mr. LE FEVRE: Petition of H. Weible and 47 others, leading citizens of Delphos, Allen, and Van Wert Counties, Ohio, asking for increase of widows' pensions—to the same committee.

By Mr. McCOMAS: Petition of Thomas Barnum, of Washington County, Maryland, for payment of war claim—to the Committee on War Claims.

Also, petition for the relief of Samuel Emmert, of Washington County, Maryland—to the same committee.

By Mr. MURPHY: Petition of Holyoke Paper Company and 13 other large manufacturing firms of Holyoke, Mass.; of Washburn & Mones and 16 other large manufacturing firms of Worcester, Mass.; of Putnam Machine Company and 7 other firms of Richfield, Mass.; of Phœnix Mills and other firms of Pittsfield and North Adams, Mass.; and of Business Mens' Association and other business and manufacturing firms of Springfield, Mass., asking Congress to construct the Hennepin Canal—to the Committee on Rivers and Harbors.

By Mr. NICHOLLS: Memorial of Joseph S. Hagin, county school commissioner of Bullock County, Georgia, praying for the passage of the Blair educational bill—to the Committee on Education.

By Mr. PATTON: Petition of citizens of Parker's Landing, Armstrong County, Pennsylvania, asking for an appropriation of $300,000 for the improvement of the Allegheny River—to the Committee on Rivers and Harbors.

By Mr. ROSECRANS: Petitions for the purchase of Miss C. L. Ransom's life-size portrait of General George H. Thomas and placing same in the Capitol at Washington from the following Grand Army Posts, namely: From the Department of Arkansas, Posts Nos. 1 and 21; from the Department of California, Posts Nos. 1 and 6; from the Department of Colorado, Post No. 20; from the Department of Connecticut, Post No. 2; from the Department of Dakota Territory, Post No. 16; from the Department of District of Columbia, Lincoln Post; from the Department of Florida, Posts Nos. 1 and 6; from the Department of Illinois, Posts Nos. 152 and 204; from the Department of Indiana, Posts Nos. 106, 107, 136, 176, 266, 292, 344, and A. D. Sholtz Post; from the Department of Iowa, Posts Nos. 6 and 256; from the Department of Kansas, posts at Florence, Wier, Halsted, Prescott, Winchester, Cheney, Milan, and one signed by A. R. Wilkin and others; from the Department of Maine, Post No. 2; from the Department of Massachusetts, Posts Nos. 35, 41, and 48; from the Department of Michigan, Nos. 22 and 97; from the Department of Minnesota, Post No. 37; from the Department of Missouri, Posts Nos. 84, 126, and 156; from the Department of New Jersey, Post No. 23; from the Department of New York, Posts Nos. 4, 29, 129, 179, 240, 344, and 498; from the Department of Ohio, Posts Nos. 10, 12, 25, 141, 229, 258, 289, 307, 445, 456, and one at Toledo; from the Department of Pennsylvania, Posts Nos. 2, 112, 116, and one at Huntingdon; from the Department of Virginia, Posts Nos. 11 and 13; from the Department of Wisconsin, posts at Dorchester, De Soto, East Troy, and Stevens Point; and one from officers at San Antonio, Department of Texas; also one signed by W. F. Ford and 31 other war veterans—to the Committee on the Library.

Also, petition of William Dewand & Co. and 8 other large business firms, urging the speedy enactment of all necessary legislation to carry into effect the Mexican reciprocity treaty—to the Committee on Ways and Means.

By Mr. SENEY: Petition of Mary F. Nigh and 54 others, asking an increase of widows' pensions—to the Committee on Pensions.

By Mr. A. H. SMITH: Petition of the National Woman's Christian Temperance Union for an amendment to the United States Constitution prohibiting the disfranchisement of any citizen on account of sex—to the Committee on the Judiciary.

By Mr. STEPHENSON: Memorial of the Chamber of Commerce of Milwaukee, Wis., urging an increase of appropriations for the improvement of the harbors of Grand Haven, Ludington, and Manistee, in the State of Michigan—to the Committee on Rivers and Harbors.

By Mr. STRUBLE: Petition of C. H. Butts and 16 others, of Cherokee County, Iowa, asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. TOWNSHEND: Resolutions of the City Council of Grayville, Ill., asking for an appropriation for repairing the breaks by levees, wing-dams, &c., to protect the river banks of said city—to the Committee on Rivers and Harbors.

By Mr. YAPLE: Memorial of Milwaukee Chamber of Commerce, relative to appropriations for harbor improvements at Grand Haven, Ludington, and Manistee, in the State of Michigan—to the same committee.

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. CULLEN: Of C. J. Murray and 222 others, citizens and ex-soldiers of Morris, and of Floyd Clendenen and 405 ex-soldiers and citizens of La Salle, Ill.

By Mr. DINGLEY: Of 945 citizens of Lewiston and Auburn, Me.

By Mr. FUNSTON: Of citizens of Goodrich, of Olathe, of Barnard, and of Eudora, Kans.

By Mr. HOWEY: Of Ellis Newman and 116 others, of Phillipsburg, N. J., and of William R. Call and 63 others, of Oxford, N. J.

By Mr. B. W. JONES: Of Amos Mills and 102 others, of Black Earth, and of M. M. Hangerford and 53 others, of Blue River, Wis.

By Mr. KLEINER: Of 300 citizens and ex-soldiers of Warrick County, Indiana.

By Mr. LOWRY: Of 38 citizens of Noble County, of 61 citizens of De Kalb County, and of 206 citizens of Waterloo, De Kalb County, Indiana.

By Mr. McCORMICK: Of H. D. Workman and 126 others, of Vinton County, and of A. Rankin and 112 others, of Jackson County, Ohio.

By Mr. S. H. MILLER: Of citizens of Sharpsville, and of Miller's Station, Pa.

By Mr. OSSIAN RAY: Of William A. Smith, M. D., and 40 others, of Campton, N. H.

By Mr. W. F. ROGERS: Of citizens of Erie County, New York.

By Mr. SENEY: Of M. L. Lindwood and 48 others, of Wyandot County, Ohio.

By Mr. STEVENS: Of soldiers and widows of soldiers of Niagara County, New York.

By Mr. STEPHENSON: Of A. R. Laing and others, of Marinette, Wis.; of Morgan Riley and others, of Wood County; of Cyrus B. Barnes and others, of Waupaca County; of Joseph B. Hunton, of Oconto County; of H. K. Moore and others, of Portage County; of Augustus Atkins and others, of Oconto County; of H. T. Treadwell and others, of Wood County, and of Moses H. Ducate and others, of Marathon County, Wisconsin.

By Mr. W. L. WILSON: Of 31 citizens of Preston County, and of B. F. Minear and 89 others, of Preston County, West Virginia.

SENATE.

FRIDAY, *January* 16, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

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 the Interior, transmitting the report of the surveyor-general of New Mexico in the case of private land claim No. 134, in the Territory of New Mexico, known as the San Mateo Springs tract; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Private Land Claims.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting the report of the surveyor-general of New Mexico in the case of private land claim No. 136, in the Territory of New Mexico, known as the Santiago Ramirez grant; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Private Land Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had non-concurred in the amendment of the Senate to the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SAMUEL J. RANDALL of Pennsylvania, Mr. WILLIAM S. HOLMAN of Indiana, and Mr. JOHN D. LONG of Massachusetts managers of the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. MITCHELL presented a memorial of the Cigar-makers' Union, No. 108, of Farrandsville, Pa., and a memorial of cigar manufacturers and cigar-makers of Philadelphia, Pa., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a memorial of the Maritime Association of New York city, favoring the passage of the so-called Potter refunding bill; which was referred to the Committee on Finance.

Mr. LAPHAM. I have a communication in the nature of a memorial, addressed to me, from iron manufacturers of Northern New York, remonstrating against the ratification of the proposed Spanish reciprocity treaty. I ask that the communication may be received and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. If there be no objection the paper will be received and so referred.

Mr. McMILLAN. I present the memorial of George H. and S. P. Ely, for the Minnesota Iron Company, and a large number of business

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men and firms representing the iron-ore producing and transporting interests of the Northwest, remonstrating against the ratification of the proposed Spanish reciprocity treaty. I move that the memorial be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. McMILLAN presented a petition of citizens of Red Wing, Minn., praying for the repeal of the act of May 15, 1820, and acts supplementary thereto, fixing the tenure of certain administrative offices at four years; which was referred to the Committee on Civil Service and Retrenchment.

He also presented resolutions adopted by the Chamber of Commerce of Saint Paul, Minn., in favor of an appropriation of $50,000 for the improvement of the channel of the Mississippi River along its westerly bank in the city of Saint Paul; which were referred to the Committee on Commerce.

Mr. PIKE presented the petition of W. G. R. Mellen and 13 other citizens of Dover, N. H., praying for the passage of a bill repealing the act of May 15, 1820, and acts supplementary thereto, fixing the terms of certain administrative officers; which was referred to the Committee on Civil Service and Retrenchment.

Mr. SEWELL presented a petition of the board of agriculture of Trenton, N. J., praying for an appropriation for the establishment of experimental stations for the improvement of agriculture; which was referred to the Committee on Agriculture and Forestry.

He also presented the memorial of Ralph S. Demarest, of Demarest, N. J., remonstrating against a review of the Venezuelan awards until provision is made for certain claimants under certificates of the Caracas commission; which was referred to the Committee on Foreign Relations.

He also presented the petition of Samuel Hufty, receiver of the Gloucester City (N. J.) Savings Institution, praying for legislation restoring the value of the trade-dollar; which was referred to the Committee on Finance.

Mr. CAMERON, of Pennsylvania. I present the petition of the Chamber of Commerce of Pittsburgh, Pa., signed by John F. Dravo, president, and S. L. McHenry, secretary, praying—

First. That Congress, by appropriate action, provide for such a system of improvements, by the erection of dams and other works on the Monongahela River, as will meet the requirements of commerce, and enable the resources of the Monongahela Valley to be fully developed.

Second. That Congress will take such action looking to the purchase of said works as will at once secure the navigation of the Monongahela River free to all persons desiring to use its waters.

I commend this petition to the favorable consideration of the Committee on Commerce, to whom I move its reference.

The motion was agreed to.

Mr. CAMERON, of Pennsylvania. I present resolutions adopted at a meeting of the cigar manufacturers of Philadelphia, appended to which are the signatures of 3,000 cigar manufacturers and their employés, against the ratification of the proposed Spanish reciprocity treaty. As the resolutions are short, I ask that they may be read by the Chief Clerk.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania presents a memorial of those interested in the tobacco industry in the city of Philadelphia, and asks that it be read. Is there objection? The Chair hears none, and the memorial will be read.

The Chief Clerk read as follows:

To the honorable Senators and Representatives of Pennsylvania:

The following preamble and resolutions, adopted at a meeting of those interested in the tobacco industry in Philadelphia, are respectfully submitted for your consideration and support:

Whereas there is now pending a reciprocity treaty between the United States and Spain, which we consider in general unjust and unequal in its terms and provisions to the entire population of the United States; and

Whereas if the said treaty is adopted it will remove from the United States one of its most thriving industries, and with it millions of dollars of capital invested in the growth and manufacture of American leaf-tobacco, and throw out of employment almost as many American citizens in this particular industry as there are inhabitants in the provinces to which the treaty is to apply, and reduce the value of the labor of the few who may be able to find employment here to a par with pauper, slave, and cooly labor: Therefore,

Be it resolved, That we, cigar manufacturers and cigar-makers of Philadelphia, do most earnestly protest especially against the ratification of that part of the treaty relating to tobacco and cigars, and do respectfully urge and request the United States Senators from Pennsylvania, and through them their colleagues in the Senate, to use all honorable means and their best efforts to defeat the ratification of said treaty.

Be it further resolved, That a copy of these resolutions be forwarded to the honorable Senators Cameron and Mitchell, and to every Representative in Congress from Pennsylvania.

The PRESIDENT *pro tempore*. The Chair will state that this paper is not in the form of a memorial to Congress; but if there be no objection it will be received and referred to the Committee on Foreign Relations.

Mr. CAMERON, of Pennsylvania, presented a petition of the American Philosophical Society, praying that books relating to the physical, natural, and medical sciences be placed on the free-list; which was referred to the Committee on Finance.

He also presented memorials of the cigar-makers' unions of Erie, Meadville, Bradford, Williamsport, and Farrandsville, in the State of Pennsylvania, remonstrating against the ratification of the proposed Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. PALMER presented the petition of Bert Berry and 14 other citizens of Detroit, Mich., praying for the repeal of the four years' term acts of 1820 and later years; which was referred to the Committee on Civil Service and Retrenchment.

He also presented a memorial of the Chamber of Commerce of Milwaukee, Wis., urging the necessity of larger appropriations for the improvement of the harbors of Ludington, Grand Haven, and Manistee, Mich.; which was referred to the Committee on Commerce.

Mr. CAMERON, of Wisconsin, presented the petition of William B. Faulds, of Burnside, Wis., praying for the repeal of the act of May 15, 1820, and acts supplementary thereto, by which the constitutional term of many administrative offices was changed and fixed at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. HOAR. I present the petition of W. W. Newton and other citizens of Pittsfield, Mass., praying for the repeal of what is called the four years' tenure act. I understand that a bill to that effect is before the Committee on Civil Service and Retrenchment, and I hope that committee will be able to report upon the subject, so that the work which has been begun in that direction may be completed by the present Congress. I move the reference of the petition to the Committee on Civil Service and Retrenchment.

The motion was agreed to.

Mr. CULLOM presented a memorial of the cigar-makers of Rock Island, Ill., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. WILSON. I present resolutions adopted by the Cigar-makers' Union, No. 198, of Avoca, Iowa, remonstrating against the ratification of the proposed reciprocity treaty between the United States and Spain. While this communication is addressed to me, it is evidently intended for the consideration of the Senate. I therefore present it, and ask that it be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER (Mr. INGALLS in the chair). The paper will be received and referred to the Committee on Foreign Relations, if there is no objection. The Chair hears none.

Mr. PLATT. I present the petition of Jennette Chollar, a resident of Granby, Conn., praying that pensions granted to widows and dependent relatives of persons in the military service at a less rate than $12 per month be increased to that rate. I wish to say that the petition commends itself to my judgment. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. PIKE, from the Committee on the District of Columbia, to whom was referred the bill (S. 1941) declaratory of the meaning of section 3 of the act of June 16, 1882, for the relief of Howard University, reported it without amendment, and submitted a report thereon.

Mr. SEWELL, from the Committee on Military Affairs, to whom was referred the bill (S. 790) to authorize Col. George W. Getty, United States Army (retired), to be placed upon the retired-list of the Army with the rank and pay of a major-general, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2383) in relation to chaplains in the Army who served one year or more in the war of the rebellion as officers or privates, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. WILSON, from the Committee on Pensions, to whom was referred the petition of C. B. Searle and various other citizens of Iowa, praying for the passage of a special act of Congress granting a pension to Isabella Higgins, late hospital matron of the Eighth Regiment Iowa Volunteer Infantry, submitted a report thereon, accompanied by a bill (S. 2549) granting a pension to Isabella Higgins; which was read twice by its title.

Mr. WILSON. From the Committee on Pensions I report adversely the bill (S. 1854) granting a pension to William D. Esley. I wish to state that the report is based upon the fact that a pension has been granted to the person named since the matter has been brought to the attention of the Senate. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. WILSON. I also report adversely from the Committee on Pensions the petition of David Frazier, praying for an increase of pension, and the petition of sundry citizens of Ohio making the same prayer. The adverse report is based on the fact that the increase, if the petitioner is entitled to one, may be obtained under the present law.

The PRESIDING OFFICER. The committee will be discharged from the further consideration of the petition, and it will lie on the table.

Mr. WILSON. I also report adversely from the same committee the petition of William S. Pardee, late private of Company C, One hundred and twenty-ninth Indiana Volunteers, praying for an increase of pen-

sion. The report is also based upon the ground that the petitioner may obtain an increase, if he is entitled to it, under the existing law.

The PRESIDING OFFICER. The committee will be discharged from the further consideration of the petition, and it will lie on the table.

Mr. WILSON. I report also from the same committee adversely the petition of Martha A. F. Terrett, widow of Colville Terrett, late a lieutenant in the United States Navy, praying for an increase of pension. Inasmuch as this belongs to a class of cases concerning which there is a diversity of view in the committee as well as in the Senate, I ask that the case may be placed on the Calendar.

The PRESIDING OFFICER. Does the Chair understand this to be a petition?

Mr. WILSON. It is a petition. I ask that the report be placed on the Calendar.

The PRESIDING OFFICER. There is nothing in the rules, as the Chair understands, which authorizes the placing of a petition on the Calendar. The petition may lie on the table subject to be called up at any time.

Mr. WILSON. It is a contested case, and I desire to have the report printed.

The PRESIDING OFFICER. The report will be printed, and the petition will lie upon the table.

Mr. HOAR. I ask leave respectfully to make an observation in regard to the intimation just made from the Chair. The Chair's intimation was entirely correct, that there is no provision in our rules for putting a petition upon the Calendar. It seems to me, therefore, that when a committee differs about the disposition of a petition and desires to have the question taken up in order on the Calendar, as if it were a question upon a bill, the true way is for the committee to report an original resolution that the petition be indefinitely postponed, or that the petition lie upon the table, in which case the resolution would go upon the Calendar under the rule, it being a calendar of bills and resolutions. I suggest to my honorable friend from Iowa that if he would put the order that the petition lie on the table or be indefinitely postponed, or whatever disposition he chooses to make, in the form of a written resolution to that effect, it would come within the rule.

Mr. WILSON. Very well.

Mr. BLAIR. From the Committee on Pensions I report back adversely the bill (H. R. 1813) granting an increase of pension to Ann Cornelia Lanman. This is one of those controverted cases which the majority of the committee reports adversely. The minority is in favor of the passage of the bill and submits its views, and asks that they may be printed along with the report.

The PRESIDING OFFICER. The bill will be indefinitely postponed, if there be no objection.

Mr. BLAIR. I ask that the bill go on the Calendar, and that the views of the minority be printed.

The PRESIDING OFFICER, That order will be made.

Mr. BLAIR. I also, by direction of the same committee, report adversely the bill (H. R. 3065) granting a pension to Emma De Long, the widow of Lieutenant-Commander De Long, recommending its indefinite postponement. Along with it I also submit the views of the minority of the committee, which I ask to have printed, and that the bill be placed on the Calendar.

The PRESIDING OFFICER. The bill reported by the Senator from New Hampshire will be placed on the Calendar with the adverse report, and the views of the minority will be printed.

Mr. BLAIR. I am also directed by the Committee on Pensions, to whom was referred the bill (H. R. 4822) for the relief of Frances McNeil Potter, to report it adversely. I ask that it be placed upon the Calendar, and will state that the views of the minority of the committee are in favor of the passage of the bill.

The PRESIDING OFFICER. The bill will be placed on the Calendar with the adverse report, and the views of the minority will be printed.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (H. R. 3703) granting a pension to James W. Brown, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 6461) granting a pension to Nelson Gammons, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2204) granting arrears of pension to Nancy B. Leech, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1336) granting an increase of pension to Ann Cornelia Lanman, reported adversely thereon; and the bill was postponed indefinitely.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. 1504) for the relief of Millia Staples, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 751) granting a pension to Emma Martin and Harry E. Martin, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. JACKSON. I am also instructed by the Committee on Pensions, to whom was referred the bill (S. 2083) for the relief of Fannie B. Giltner, to submit an adverse report thereon.

Mr. COCKRELL. Let that bill go on the Calendar, please.

The PRESIDING OFFICER. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. 342) to increase the pension of Mrs. Margaret R. Jones, widow of Col. James H. Jones, late of the United States Marine Corps, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (S. 2520) for the relief of the heirs of colored soldiers who served in the war of the rebellion, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. 3370) to amend an act entitled "An act granting a pension to A. Schuyler Sutton," approved June 4, 1872, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 760) granting an additional pension to Watson S. Bentley, reported it without amendment, and submitted a report thereon.

Mr. CONGER, from the Committee on Territories, to whom was referred a petition of the board of supervisors and others, of the county of Mono, State of California, praying that an error in running the boundary line between the States of California and Nevada, by which the counties of Mono, El Dorado, and Alpine, of the former State, suffered a loss of territory, may be corrected, and a new survey of the boundary line made by the proper officers of the United States Government, reported it without recommendation, and asked that the committee be discharged from its further consideration; which was agreed to.

PORT OF ENTRY AT MOUNT DESERT FERRY.

Mr. FRYE. I am instructed by the Committee on Commerce, to whom was referred the bill (S. 2470) providing for the establishment of a port of entry at Mount Desert Ferry, in the town of Hancock, in the State of Maine, to report it favorably with an amendment.

The Maine Central Railroad corporation extended its road last season to Mount Desert Ferry, built extensive wharves and other erections, and commenced to receive at that port a very large amount of business from the Dominion of Canada and from other sections of the world. The port of entry is at Ellsworth, forty miles above, at the head of a river. The harbor at Mount Desert Ferry is one of the best on the coast, and it is absolutely necessary that some facilities for business shall be given at that port.

This bill was referred to the Secretary of the Treasury, and by him approved with the amendment which the committee has reported. It is important that the bill should become a law in readiness for the approaching season, and therefore I am very anxious that it shall pass the Senate now and go to the other branch. The Committee on Commerce authorized me to ask unanimous consent for its consideration.

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

The amendment reported by the Committee on Commerce was to add the following proviso:

Provided, That the official duties of said port shall be performed under the direction of the collector of customs for the district of Frenchman's Bay and by a deputy detailed by him for that purpose.

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.

ELIZABETH CARSON.

Mr. CAMERON, of Wisconsin. The Committee on Claims, to whom was referred the bill (S. 12) for the relief of Elizabeth Carson, with an amendment of the House of Representatives thereto, have instructed me to report the bill back with a recommendation that the Senate concur in the amendment of the House. If there is no objection I should like to have it considered at this time.

The PRESIDING OFFICER. If there be no objection the bill will be regarded as before the Senate, and the question is on concurring in the amendment of the House of Representatives.

Mr. SHERMAN. I should like to have the amendment of the House read.

Mr. CAMERON, of Wisconsin. I will state that this is the claim of a woman residing in Kentucky, who, during the war, was the keeper of a county jail in that State. She was required by the military authorities to furnish rations, lodgings, &c., to confederate prisoners and also to Union soldiers. She made a claim for rations furnished, also for her personal services, and also, I think, for rent. The Senate Committee on Claims, after considering her petition and claim, reported in favor of allowing 60 cents a day for the rations which she actually furnished by order of the military authorities. That bill was favorably

considered by the Senate and passed and went to the House of Representatives.

Mr. SHERMAN. Was the order made by the Union authorities?

Mr. CAMERON, of Wisconsin. Yes; by the national military authorities. The House amended the bill by striking out all after the enacting clause and providing that her whole claim should be investigated by the War Department, and that the Secretary of War after such investigation should report to Congress his conclusions. That is all there is of it. The committee recommend concurrence in the House amendment.

The PRESIDING OFFICER. The question is on concurring in the amendment of the House of Representatives.

The amendment was concurred in.

JUSTICES OF THE PEACE IN WYOMING.

Mr. HARRISON. I am directed by the Committee on Territories to report favorably and without amendment the bill (H. R. 5639) extending the jurisdiction of justices of the peace in Wyoming Territory. As it is a House bill, consisting of only five or six lines, I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that justices of the peace in the Territory of Wyoming shall not have jurisdiction of any matter in controversy where the debt or sum claimed exceeds $300.

Mr. HOAR. What is the present law?

Mr. HARRISON. The amount fixed in the present law is $300 in several Territories and $100 in some others. The Legislative Assembly of Wyoming has petitioned to have the jurisdiction of the justices of the peace in that Territory fixed in the same way as in other Territories, not to exceed $300.

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

BILLS INTRODUCED.

Mr. BECK introduced a bill (S. 2550) to settle and adjust the claims of any State for expenses incurred by it in the defense of the United States; which was read twice by its title, and referred to the Committee on Claims.

Mr. SAULSBURY (by request) introduced a bill (S. 2551) for the relief of George E. Moore, of the District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. DOLPH introduced a bill (S. 2552) for the relief of P. C. Davis; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced a bill (S. 2553) to grant an increase of pension to Frederick Beno; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DAWES (by request) introduced a bill (S. 2554) to equalize the pay of graduates of the Naval Academy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HOAR introduced a bill (S. 2555) granting a pension to Van Buren Dorr; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SABIN introduced a bill (S. 2556) for relief of settlers under the homestead laws; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COCKRELL (by request) introduced a bill (S. 2557) for the relief of William Wolfe, of Shelbina, Shelby County, Missouri; which was read twice by its title.

Mr. COCKRELL. I move that the bill be referred to the Committee on Claims, and express the hope that the committee will refer the same to the Court of Claims under the so-called Bowman act.

The motion was agreed to.

Mr. BUTLER introduced a bill (S. 2558) for the relief of Theodore De Hou; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. SEWELL introduced a joint resolution (S. R. 111) referring the controversy between the United States and Venezuela in respect to the awards of the mixed commission to the President; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. MANDERSON introduced a joint resolution (S. R. 112) providing for the sale of public documents; which was read twice by its title, and, with the accompanying letter from the superintendent of the Senate document-room, referred to the Committee on Printing.

AMENDMENTS TO BILLS.

Mr. MILLER, of California, submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and, together with the accompanying paper, ordered to be printed.

Mr. SEWELL submitted an amendment intended to be proposed by him to the bill (S. 2112) to establish a commission to regulate interstate commerce, and for other purposes; which was ordered to lie on the table and be printed.

MEMORIAL TABLET TO HENRY WILSON.

Mr. HOAR. I offer the following resolution, and ask for its present consideration:

Resolved, That the Architect of the Capitol, under the direction of the Committee on the Library, place a neat marble tablet in the room in the Senate wing of the Capitol where Vice-President Henry Wilson died, appropriately recording the fact and date.

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

Mr. HOAR. I suppose there will be no objection on the part of any Senator to the passage of this resolution. The eminent citizen to whom it relates ended a very brilliant and distinguished public service in this Chamber of more than twenty years by his death in the Vice-President's room. His wife and children had preceded him to the grave, and for many years this Chamber, more than any other place on earth, was his home.

He was an eminent instance of the opportunity afforded by American institutions to the humblest person, without early advantages, struggling against poverty, to raise himself to the highest station. He was at the time of his death one of the most beloved citizens of the Republic. He held the second office within the gift of the people, and a large number of his fellow-citizens were looking to him as likely to be elevated to the first office within the gift of the people if his life had been spared.

It will be agreeable to his friends and fellow-citizens of Massachusetts, and I think to every American who visits the Capitol, to have this simple record of the spot where he closed his distinguished and useful life.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

INVITATIONS TO INTERNATIONAL EXHIBITIONS.

The PRESIDING OFFICER. If there are no further resolutions the order of morning business is closed, and the Chief Clerk will report the first bill on the Calendar under Rule VIII.

The CHIEF CLERK. "A bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass."

Mr. PLATT. I thought that the bill relating to the appointment of commissioners to international exhibitions was the unfinished business for this morning by general consent.

The PRESIDING OFFICER. There is no unfinished business of the morning hour.

Mr. MILLER, of California. Then it will be necessary to move to take up that bill.

Mr. HOAR. I understand there was unanimous consent asked for and obtained that the bill referred to might come over to this morning from yesterday.

Mr. PLATT. The bill was postponed until to-day. However, I shall move to proceed to the consideration of the bill.

The PRESIDING OFFICER. The Senator from Connecticut moves that the Senate proceed to the consideration of the bill (S. 2436) to enable the President to accept invitations of foreign governments to international exhibitions and to appoint commissioners thereto, and for other purposes. The question is on agreeing to the motion.

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

The PRESIDING OFFICER. The question is on agreeing to the substitute proposed by the Senator from New Jersey [Mr. SEWELL].

Mr. PLATT. I move as an amendment to the amendment of the Senator from New Jersey to add a new section, as follows:

SEC. 5. *And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint a commissioner to represent the United States in the international inventions exhibition to be held in London in May next, and, under the direction of the Secretary of State, make all needful rules and regulations in reference to the exhibits and contributions from this country, and control the expenditures incident to the proper installation and exhibition thereof, and to the preparation of reports upon the exhibition. That under like direction exhibits may be prepared in the Patent Office, and with appropriate letters patent, models, and drawings therefrom, transmitted to such exhibition, and under like direction all exhibits authorized by the commissioner may, when practicable, be transmitted to such exhibition in public vessels free of cost. And in order to defray the necessary expenses authorized by this section, and for the proper installation of the exhibition and the expenditures of the commissioner made under the direction of the Secretary of State, and with his approval and not otherwise, there be, and hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary for the purpose herein specified, which sum shall be expended under the direction of the Secretary of State.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Connecticut to the amendment of the Senator from New Jersey.

The amendment to the amendment was agreed to.

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

Mr. COCKRELL. Let it be read as amended.

The PRESIDING OFFICER. It will be read.

The CHIEF CLERK. It is proposed to strike out all after the title of the bill and to insert:

Whereas the Government of the United States has received official intimation from that of Belgium that it is proposed to hold an international exhibition, which

will embrace all industrial products, all goods forming objects of commercial transactions, and all objects and appliances of interest to navigation, to be opened at Antwerp, May 2, 1885, and will have a duration of at least five months, whereat the representation of the United States is invited; and

Whereas also, by its action as a government and by the active enterprise of merchants, the United States has attained and holds a prominent place in all that relates to the development of all industrial products, the extension of the great commercial relationship with other countries, based on the exportation of goods forming objects of commercial transactions, which now form an important factor in the national wealth, and it is expedient that the industries and interests thus concerned should be adequately represented on the occasion: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the invitation of the Belgium Government be accepted; and that, under the auspices of the Department of State, the United States commissioners to the World's Industrial and Cotton Centennial Exposition at New Orleans be, and they hereby are, instructed to prepare or cause to be prepared, upon the termination of said World's Industrial and Cotton Centennial Exposition, a complete and systematic representative exhibition of the Government exhibits at the exposition at New Orleans, and to take such further measures as may be necessary in order to secure a proper representation of the productions of our industry and of the nature of the natural resources of the country at the international exhibition to be held at Antwerp in 1885.

SEC. 2. That the President, by and with the advice and consent of the Senate, shall appoint three commissioners to represent the United States in the proposed exhibition at Antwerp, and, under the general direction of the Secretary of State, to make all needful rules and regulations in reference to the exhibits and contributions from this country, and to control the expenditures incident to the proper installation and exhibition thereof, and to the preparation of reports on the exposition.

SEC. 3. That the President be authorized, in his discretion, to assign one or more public vessels to transport to and from Antwerp, free of cost, under regulations to be prescribed by the commissioners to the Antwerp exposition, such articles of the Government exhibit as may be selected and prepared for transportation by the commissioners to the New Orleans Exposition, and such other articles as may be offered for exhibition by the citizens of the United States.

SEC. 4. That in order to defray the necessary expenses above authorized, and for the proper installation of the exhibition, and the expenditures of the commissioners, made under the direction of the Secretary of State and with his approval, and not otherwise, there be, and hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary, for the purpose herein specified, which sum shall be expended under the direction of the Secretary of State.

SEC. 5. *And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint a commissioner to represent the United States in the international inventions exhibition to be held in London in May next, and, under the direction of the Secretary of State, make all needful rules and regulations in reference to the exhibits and contributions from this country, and control the expenditures incident to the proper installation and exhibition thereof, and to the preparation of reports upon the exhibition. That under like direction exhibits may be prepared in the Patent Office, and, with appropriate letters patent, models, and drawings therefrom, transmitted to such exhibition; and under like direction all exhibits authorized by the commissioner may, when practicable, be transmitted to such exhibition in public vessels free of cost. And in order to defray the necessary expenses authorized by this section, and for the proper installation of the exhibition and the expenditures of the commissioner, made under the direction of the Secretary of State and with his approval, and not otherwise, there be, and hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary, for the purpose herein specified, which sum shall be expended under the direction of the Secretary of State.

Mr. PLATT. It did not occur to me when I drew my amendment that there is a public statute which provides that the words "And be it further enacted" shall not be put at the head of sections. I ask, therefore, that by unanimous consent those words be stricken out, and that the section begin with the word "That."

The PRESIDING OFFICER. If there be no objection that order will be made. The question is on agreeing to the amendment as amended.

Mr. COCKRELL. I wish to call the attention of the Senator from New Jersey to his amendment. The preamble reads:

Whereas the Government of the United States has received official "intimation," &c.

The bill then says, "the invitation." I suggest that the word "intimation" ought to be stricken out and "invitation" inserted, unless there has not been any invitation extended; and if there has not been, the bill ought not to be passed.

Mr. SEWELL. The Senator from Missouri is correct. The Government has received an official invitation. It ought to read "official invitation."

Mr. COCKRELL. Then I move to amend in the second line of the first whereas by striking out the word "intimation" and inserting "invitation." Probably "information" would be better in that connection. Let it read "official information."

The PRESIDING OFFICER. Does the Senator from Missouri move that amendment?

Mr. COCKRELL. Yes, sir.

The PRESIDING OFFICER. The Chief Clerk will report the amendment to the amendment.

The CHIEF CLERK. In line 2 of the first division of the preamble it is proposed to strike out "intimation" and insert "information;" so as to read:

Whereas the Government of the United States has received official information from that of Belgium that it is proposed to hold an international exhibition, &c.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment as amended.

The amendment as amended was agreed to.

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

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

On motion of Mr. SEWELL, the title was amended to read: "A bill to authorize the President to appoint commissioners to the Belgium international exhibition at Antwerp, and for other purposes."

NAVAL APPROPRIATIONS.

Mr. HALE. I ask the Chair to lay the message from the House of Representatives in regard to the naval appropriation bill before the Senate.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes.

Mr. HALE. I move that the Senate insist on its amendments and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent, the presiding officer was authorized to appoint the conferees on the part of the Senate; and Messrs. HALE, ALLISON, and BECK were appointed.

FIRST NATIONAL BANK OF NEWTON, MASS.

The PRESIDING OFFICER. The Secretary will report the first bill on the Calendar under Rule VIII.

The bill (S. 1331) making appropriation for the relief of the First National Bank of Newton, Mass., was announced as first in order, and the Senate, as in Committee of the Whole, resumed its consideration.

Mr. PLATT. I do not remember that during this discussion any attention has been called to a report made in the other House upon this subject. I should like to inquire, if it be in order, whether a report has been made in the House on this subject, and if so, whether it is for the full amount of this interest or for a less sum?

Mr. JACKSON. My impression is that there has been a House report for a less amount, though I am not entirely sure.

Mr. PLATT. I do not think I can vote for the payment of interest to the extent which the bill provides. It seems to me that it is equitable that the amount of interest which has accrued upon that portion of the securities which were Government bonds, upon which the United States was relieved from the payment of interest while the bonds were in its possession, should be paid; or perhaps it is equitable and proper, and I do not know but that it is according to law, that interest should be paid since the date of the judgment in the Court of Claims.

Mr. COCKRELL. That has been paid.

Mr. PLATT. I think that has not been paid, and it is my impression that the committee of the House has reported a bill fixing the amount of interest to be paid as that which has accrued since the date of the judgment of the Court of Claims. I have not had an opportunity to send for the House report, but I think that is the sum which is reported by the House committee. It is not for me to propose amendments to this bill, but on the bill in its present shape I think I shall be obliged to vote in the negative.

Mr. COCKRELL. If there were no interest paid on this judgment after its rendition by the Court of Claims it was the fault of the claimants, not of the law; and I should like to know why it is that they did not follow the law and secure the payment of interest upon the judgment.

Mr. SHERMAN. As a matter of course the judgment itself and the interest accruing thereon was paid, because the judgment drew interest.

Mr. COCKRELL. But they claim that they did not get any interest after the rendition of the judgment on the amount of the judgment.

Mr. JACKSON. The Senator will allow me to say that after the rendition of the judgment in the Court of Claims the Attorney-General took an appeal to the Supreme Court in the spring of 1881, and in the fall of 1881 he dismissed that appeal, so that no judgment was rendered in the Supreme Court and no interest was awarded or paid, not a cent.

Mr. COCKRELL. That is an explanation which does not explain anything, I must confess. I read the law, section 1089 of the Revised Statutes:

SEC. 1089. In all cases of final judgments by the Court of Claims, or, on appeal, by the Supreme Court, where the same are affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of the Court of Claims, and signed by the chief-justice, or, in his absence, by the presiding judge of said court.

Section 1090 provides:

In cases where the judgment appealed from is in favor of the claimant, and the same is affirmed by the Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid, but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.

If when this judgment was rendered and the Attorney-General brought an appeal they had presented a transcript of the judgment to the Secretary of the Treasury, as the law provided, they would have been entitled to 5 per cent. interest upon it. Section 1091 provides:

No interest shall be allowed on any claim up to the time of the rendition of judgment thereon by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest.

Under the general law no interest can be allowed by the Court of Claims upon any judgment rendered therein prior to the rendition of the judgment unless the contract upon which suit has been brought expressly provides for the payment of interest; but just as soon as judgment has been rendered the claimant then has a right to file a certified copy of it with the Secretary of the Treasury, and then that judgment draws 5 per cent. per annum interest thereon from that time. I read section 1092:

SEC. 1092. The payment of the amount due by any judgment of the Court of Claims and of any interest thereon allowed by law as hereinbefore provided, shall be a full discharge to the United States of all claim and demand touching any of the matters involved in the controversy.

Mr. President, this is to my mind a very peculiar case, and it is to me remarkably strange how it is proposed to pay to these claimants an amount of interest greater than the original claim.

Mr. JACKSON. Oh, no.

Mr. COCKRELL. What was the original claim?

Mr. JACKSON. Three hundred and seventy-one thousand and twenty-five dollars.

Mr. COCKRELL. And what is the amount here?

Mr. JACKSON. Two hundred and forty-nine thousand dollars.

Mr. COCKRELL. Lacking then about $125,000 of being the amount. Now, Mr. President, what are the facts in this case?

The PRESIDING OFFICER. The Senator from Missouri has spoken five minutes.

Mr. COCKRELL. This is not under that rule, I will inform the presiding officer with all due deference.

Mr. HARRIS. It has been relieved from the five-minute rule by a vote of the Senate.

The PRESIDING OFFICER. Not this morning.

Mr. COCKRELL. Then I object to its consideration.

Mr. PLATT. At the last sitting of the Senate the suggestion was made that some Senator had spoken five minutes or more than once on this bill, and my recollection is that the President *pro tempore*, then occupying the chair, ruled that this discussion did not proceed under Rule VIII, and the person speaking was permitted to go on and conclude his remarks.

Mr. HOAR. This bill was taken up by vote of the Senate.

The PRESIDING OFFICER. The bill came up this morning regularly under Rule VIII as the first bill on the Calendar.

Mr. COCKRELL. I object to its consideration. Now let the Senator from Massachusetts move to take it up.

Mr. HOAR. I want to state to the Chair that the Senator from Tennessee [Mr. HARRIS] was in the chair at the time this bill was considered under Rule VIII. Thereupon, objection being made, the Senate voted to proceed to its consideration notwithstanding the objection. Upon that question I consulted the President of the Senate *pro tempore*, and the eminent parliamentarian who is now upon his feet [Mr. HARRIS], and I think I am warranted in saying that they both were of opinion that taking it up notwithstanding the objection still left it under Rule VIII, but took away the right of any Senator to object to it, and removed it from the operation of the five-minute restriction of debate.

Mr. HARRIS. I simply desire to say, Mr. President, that the very question that is now raised occurred to me yesterday when I chanced to be in the chair when this bill was taken up. I indulged unlimited debate because the Senate had by vote proceeded with the consideration of this bill notwithstanding the objection, and the debate proceeded without limit because of that order. That was my construction. But when the President *pro tempore* of the Senate returned to the chair, not being absolutely certain as to the correctness of my construction of the rule, I presented the question to him, and he is decidedly of opinion that the consideration of this bill is relieved from the five-minute limit of debate, just as I held it to be by indulging the debate yesterday morning.

The PRESIDING OFFICER. Debate can proceed by unanimous consent only unless a motion is made to proceed with the consideration of the bill notwithstanding the objection.

Mr. HOAR. I will not of course appeal from the decision of the Chair under the circumstances, but I will move to proceed with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed with the consideration of the bill notwithstanding the objection of the Senator from Missouri.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole.

Mr. COCKRELL. Now, Mr. President, I want to make a simple statement of the facts in this case from the record in the Court of Claims. I now read from the sixteenth volume of Court of Claims Reports, 1880, page 55, the following:

At the same time there was in Boston a firm of brokers doing business under the name and style of Mellon, Ward & Co., of which firm the Edward Carter above named was the junior member.

Edward Carter was a member of the firm of Mellon, Ward & Co. He was at the same time the agent of the First National Bank of Newton, stationed in Boston. He was the agent of the bank, and he was also a member of the firm of Mellon, Ward & Co., and he it was who induced Mr. Julius F. Hartwell, the disbursing clerk in the office of the assistant treasurer of the United States in Boston, to take money belonging to the United States, upon which they engaged in a speculation. Now I read from page 56:

Prior to the 1st day of March, 1867, the said Mellon, Ward & Co., acting by and through the said Carter, had succeeded in inducing the said Hartwell to take out of the subtreasury in Boston, at various times, and place in Carter's hands large amounts of money belonging to the United States.

I read again from page 57:

Carter told Hartwell that he saw no way but to go on, and make his money whole on the 1st of March.

Carter was the agent of this bank and he was a member of the firm of Mellon, Ward & Co., and he seduced Hartwell, a Government employé, and induced him to loan them money to operate upon in stock speculations. That is the position of the bank; its trusted agent, the man who did its business, and a Government employé take the money of the United States and it is squandered and stolen. Now why should the United States be liable for interest upon this claim any more than upon thousands and hundreds of thousands of other claims? It languished for years, and judgment was finally rendered, but not a dollar of interest is allowable until after the rendition of the judgment and its presentation to the Secretary of the Treasury. Take the Sugar-rebate cases, where millions of dollars were paid into the Treasury and applied to the extinguishment of the interest-bearing debt of the United States. Afterward a decision of the proper court declared that these payments were not required to be made by law. In other words, the interpretation of the Secretary of the Treasury was not justified, and an excessive tax had been exacted. Those who had paid the money sued, and they got judgment in the proper court. Was any interest paid to them? Their money went into the Treasury; their money extinguished the interest-bearing debt of the United States; but no interest has been paid to them; and are their equities not just as strong as the equities of this bank, whose own trusted agent seduced and induced an official of the Government to betray his trust and take the sacred fund from the Treasury and use it for his private speculations?

There are thousands of cases where money has gone into the Treasury, been applied to the payment of the interest-bearing debt, and the party has recovered it afterward, but no interest has been allowed. I say there is no reason why an exception should be made in this case.

Mr. HOAR. Will the Senator allow me to correct him as to a matter of fact?

Mr. COCKRELL. Certainly.

Mr. HOAR. I do not understand that it is true that any person occupying the relation of a trusted agent of the bank did what the Senator says.

Mr. COCKRELL. I was only reading what the Court of Claims said, that Mr. Carter was the trusted agent of the First National Bank of Newton.

Mr. HOAR. "The trusted agent?" Where do you find that?

Mr. COCKRELL. He was intrusted with large sums of money and with delicate and intricate business transactions, and unless he had been trusted he would not have been the agent. Therefore, he was the trusted agent.

Mr. HOAR. If the Senator will pardon me, this person was one of the directors of the bank. He had no agency whatever as an individual. He was one of the board of directors. He had an influence. Somebody said the other day in debate that the managing director of the bank did this thing and therefore the bank was responsible. You might as well say that a leading Senator of this body did something and therefore the Senate was responsible. He had no agency, no power to bind the bank.

Mr. COCKRELL. Then who is responsible on the part of the United States? Here is a humble financial clerk in the Boston subtreasury, and he is seduced by the agent of this bank; and the people of the United States, who seem to have no representatives here, are to be mulct in the payment of $249,000 because some insignificant employé in the Boston subtreasury was seduced and bribed to betray his trust.

Where is the equity and justice in this case now? This money comes out of the pockets of the tax-payers of the United States. This man was no more their agent than was any other employé of the Government. He was not the Government of the United States, he was an insignificant officer of theirs, who by reason of the seductive influences held out by this man Carter, the agent of the Newton bank, betrayed his trust and perverted the funds of the people placed in his hands from a legitimate to an illegitimate object, and now the people of the United States are to be held as indorsing the thefts and larcencies of this scoundrel Hartwell, and be made to pay $249,000 for his dereliction of duty when it was superinduced and caused by the agent of this bank.

Mr. President, I fail to see any justice or equity in such a case as this. Mr. Carter was a member of the firm of Mellon, Ward & Co.; he was the agent in Boston of the Newton bank, and he transacted its important business, as the records of the Court of Claims show:

At the same time the said Carter was a special agent, in Boston, of the Newton bank, appointed by the directors thereof to transact the business of the bank connected with Government, and to assist the cashier of the bank in matters pertaining to the bank which required attention in Boston.

He was the agent of the bank appointed by the directors for the express purpose of transacting business with the officers of the United States. They trusted him. He was their trusted agent to confer and transact business with the officers of the United States, and he, for illegitimate gains and profits, seduced and led astray the officer of the United States; and now the people of the United States, the Government, the men who pay all the taxes, are to be mulct $249,000 to this bank for the action of its trusted agent and representative!

Mr. President, I can see no justice in allowing this interest. The greatest amount that could possibly be allowed would be the amount suggested by the Senator from Connecticut, the amount due upon the bonds which were taken and converted. There is pending elsewhere a bill (H. R. 5669) making appropriation for the relief of the First National Bank of Newton, Mass., and that bill, in its second section, appropriates the sum of $36,746.15 "for the purposes set forth in section 1 hereof, out of any money in the Treasury not otherwise appropriated;" and section 1 reads thus:

That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay interest at the rate of 5 per cent. per annum on the judgment rendered in favor of the First National Bank of Newton, Mass., against the United States, in the sum of $371,025, from January 24, 1881, to the date of payment of said judgment; also the sum of $17,949, interest on $25,000 in United States bonds and $20,000 in United States interest-bearing notes taken from said bank and deposited in the United States subtreasury at Boston, Mass., on the 28th day of February, 1867.

In other words, the House bill proposes to pay interest upon the judgment from the day of its rendition in the Court of Claims, and then proposes to pay interest on the Government bonds which were canceled and which were found in the subtreasury, and interest on which the Government thereby saved. It was the laches of the claimants that no interest was paid upon the judgment of the Court of Claims, but so far as I am concerned it may have been excusable, and I will not raise that point. It may have been excusable, and therefore I should join with the Senator from Connecticut in saying that I would offer no further opposition to the passage of a bill making the allowance indicated in the House bill. I shall offer that as a substitute for the pending bill.

Mr. CONGER. Will the Senator allow me to ask him whether in the last of his remarks he refers to the interest on the unpaid portion of the judgment for about ten months?

Mr. COCKRELL. Yes, sir.

Mr. CONGER. There was a large part, two-thirds of the judgment or more, paid within four days after the rendition of the judgment, and the balance of it, one hundred and odd thousand dollars, within ten months.

Mr. COCKRELL. This sets forth the amount. I move now to strike out all after the enacting clause and insert what I send to the Chair.

The matter proposed to be inserted was read, as follows:

That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay interest at the rate of 5 per cent. per annum on the judgment rendered in favor of the First National Bank of Newton, Mass., against the United States, in the sum of $371,025, from January 24, 1881, to the date of payment of said judgment; also the sum of $17,949, interest on $25,000 in United States bonds and $20,000 in United States interest-bearing notes taken from said bank and deposited in the United States subtreasury at Boston, Mass., on the 28th day or February, 1867.

SEC. 2. That the sum of $36,746.15 is hereby appropriated for the purposes set forth in section 1 hereof, out of any money in the Treasury not otherwise appropriated.

Mr. COCKRELL. I now ask for the reading of a report which I hold in my hand, and in that report I will call attention to one or two facts which were not elicited, or I did not observe them, in the report of the Senate committee.

On the 24th of January, 1881, the First National Bank of Newton obtained in said court a final judgment against the United States in said cause for the principal claimed, namely, $371,025. (See thirteenth Court of Claims Reports.)

On the 28th of April, 1881, it served a copy of the judgment upon the Secretary of the Treasury—

That was three months after the rendition of the judgment—

as is prescribed by section 1090, Revised Statues of the United States. In March, 1881, the incoming Attorney-General of the United States appealed from said judgment to the Supreme Court of the United States, and on the 25th of October, 1881, withdrew the appeal.

On the 29th of October, 1881, the Treasurer of the United States paid $260,000 of said judgment, and waits only for an appropriation to pay the balance.

But it is claimed that the judgment bears no interest, because it is not within the letter of the section 1090 of the Revised Statutes of the United States, and the bill under consideration is to obtain such interest and have an appropriation made for paying the balance of the judgment.

The act of March 3, 1863, ch. 92, sec. 7 (12 U. S. Stat., 766), provided as follows:

"In all cases of final judgments by said court, or on appeal by the said Supreme Court where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of said Court of Claims, and signed by the chief-justice, or, in his absence, by the presiding judge of said court.

"And in cases where the judgment appealed from is in favor of said claimant, or the same is affirmed by the said Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid."

Now I ask that the whole report may be read, as sustaining the amendment which I have offered.

The Secretary read the following report, submitted by Mr. COLLINS in the House of Representatives March 4, 1884:

The Committee on the Judiciary, to whom was referred bill H. R. 751, having considered the same, beg leave to make the following report:

This case was fully investigated by the Committee on the Judiciary of the House of Representatives of the Forty-seventh Congress, whose favorable report we quote from and make a part of our report, as follows:

"[H. Report No. 353, Forty-seventh Congress, first session.]

"The State National Bank of Boston was swindled by Hartwell, a United States subtreasury agent, at Boston, Mass., in 1867. It sued the Government, obtained final judgment therefor, and was paid. For the facts, see 10 Court of Claims Reports, 519, and 96 U. S. S. C. Reports, 30.

"The First National Bank of Newton was also swindled by Hartwell at the same time, and substantially in the same way. It brought suit against the United States in the Court of Claims in February, 1873, but allowed its cause to await the final judgment in the suit of the State National Bank vs. The United States, above mentioned. On the 24th of January, 1881, the First National Bank of Newton obtained in said court a final judgment against the United States in said cause for the principal claimed, namely, $371,025. (See 13 Court of Claims Reports.)

"On the 28th of April, 1881, it served a copy of the judgment upon the Secretary of the Treasury, as is prescribed by section 1090, Revised Statutes of the United States. In March, 1881, the incoming Attorney-General of the United States appealed from said judgment to the Supreme Court of the United States, and on the 25th of October, 1881, withdrew the appeal.

"On the 29th of October, 1881, the Treasurer of the United States paid $260,000 of said judgment, and waits only for an appropriation to pay the balance.

"But it is claimed that the judgment bears no interest, because it is not within the letter of the section 1090 of the Revised Statutes of the United States, and the bill under consideration is to obtain such interest and have an appropriation made for paying the balance of the judgment.

"The act of March 3, 1863, chapter 92, section 7 (12 U. S. Stat., 766), provided as follows:

"'In all cases of final judgments by said court, or on appeal by the said Supreme Court where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of said Court of Claims, and signed by the chief-justice, or, in his absence, by the presiding judge of said court.

"'And in cases where the judgment appealed from is in favor of said claimant, or the same is affirmed by the said Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid; but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.'

"Section 1090 of the Revised Statutes of the United States is as follows:

"'In cases where the judgment appealed from is in favor of the claimant, and the same is affirmed by the Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid; but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.'

"The first sentence in the act of 1863, quoted above, provides for payment of judgments against the United States, whenever final, either in the Court of Claims (of which that statute was the basis), or if appealed from by the United States, made final by affirmance in the Supreme Court of the United States, and makes the mode of payment simple and prompt.

"The second sentence of the act of 1863, above quoted, provided for payment of interest upon and after notice of either of those facts duly served upon the Secretary of the Treasury. In transferring the quoted law into the Revised Statutes of the United States it was made sections 1089 and 1090. But in section 1090 the 'or' after claimant was changed to 'and.' This changed the law, in the letter, so that no interest can be collected on a final judgment against the United States in said court unless, if it be appealed from, it is also affirmed by the Supreme Court. At least this is the construction of the Treasury Department. Under that construction the United States may simply appeal in every case with or without meritorious ground for appeal, put the claimant to the delay and expense of having the cause docketed and dismissed by the claimant under rule of the Supreme Court, or, worse, wait till the cause is about to be heard and withdraw the appeal and save interest *ad interim*. For there is no concurrence of final judgment below and affirmance by the Supreme Court, as there is no judgment of the Supreme Court affirming the judgment below. Such a construction manifestly does violence to the intention of the law and to justice between the Government and claimants who obtain judgments against it on its contracts. After any final judgment by its own Court of Claims, and notice thereof served upon the Secretary of the Treasury, it is right for the Government to pay interest unless it shows that judgment below to be wrong. It may be perfectly right for the disbursing officers to stick thus to the letter, for they should pay out no money without plain statutory authority.

"We suppose that the revisers did not intend to produce such an absurdity, but meant to say, 'In cases where the judgment appealed from is in favor of the claimant, and in cases where the same is affirmed by the Supreme Court, interest thereon at the rate of 5 per cent. shall be allowed,' &c.; that is, on the original judgment."

Among the funds taken from said bank were $25,000 in United States coupon bonds, and $20,000 in United States compound-interest-bearing notes. The interest upon these bonds and notes, of which the Government received the benefit, and of which the bank was deprived by the conversion, amounts to $17,949.

The bill calls for and the counsel for the bank claim interest upon the whole amount ($371,025) from the date of conversion to the date of payment. Many precedents and authorities were cited in support of the claim.

But your committee are of the opinion that while this is an exceptional case, and one of extreme hardship, the general policy of the Government is fixed and declared to be that—

"No interest shall be allowed on any claim up to the time of the rendition of judgment thereon by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest." (Revised Statutes, section 1091.)

The bonds and compound-interest notes are such contracts. The Court of Claims did not allow this interest, and your committee believe that good faith, justice, and equity require the payment thereof.

They therefore report the accompanying bill as a substitute for the one referred to them, and recommend its passage.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri [Mr. COCKRELL].

Mr. SHEFFIELD. Mr. President, it seems to me that this is a very narrow question and depends on very narrow principles, principles that are well settled. The powers of this Government are distributed into three departments. The judiciary department has determined that

this debt is due. Out of comity to that department we should regard that judgment as a final judgment, as the end of the matter, and not undertake to go behind it. When the court determined that question it determined at the same time that the United States was the tort debtor of this bank. It is well settled as a matter of law in questions of this character, the court being deprived of the power to grant interest or damages by way of interest, that where the United States are tort debtors interest should be allowed. If that is the case, it seems to me that is the end of the argument; it is a mere cold question of law; and on these principles it seems to me that the whole matter would be easily settled. I may be in error about this, but this is the way the question strikes my mind.

Mr. JACKSON. Mr. President, I wish to say a word or two in reference to the objections which have been urged by the Senator from Missouri and the Senator from Michigan.

It is a very unusual proceding to me, and could have been objected to as out of order, to bring in a House bill and a House report here to defeat the action of a committee of this body. Here is a unanimous report from a committee of this body who have gone over the whole subject. But let that pass.

What is the position taken by these gentlemen? Let me briefly state the facts, so that the Senate will have its recollection of them refreshed for a moment. Hartwell was the cashier of the subtreasury at Boston. Mellon, Ward & Co. were stock speculators in the city of Boston. Carter was a member of the firm of Mellon, Ward & Co., and he was also a director of the First National Bank of Newton, some distance out from Boston. The firm of Mellon, Ward & Co., with Hartwell's consent, got possession of the Government funds; they used them, and lost them in stock speculations. Subsequently, after the loss of those funds, after the Government had sustained this loss, in order to make it good Carter assisted in robbing the Newton bank, and took the stolen assets and placed them in the subtreasury with the knowledge of the Government agent. He did this to make good that loss. Mr. Whittle, the chief clerk, was told by Hartwell himself at the very time he took and appropriated these assets that they were the assets of the First National Bank of Newton. That is the fact disclosed by the record in the court and by the proof before our committee.

The gentlemen are in the position of asserting that because of the accidental circumstances of Carter being a member of the firm of Mellon, Ward & Co., and at the same time a director of the bank, he was justified in making good Hartwell's default by stealing the assets of the bank of Newton! Why, suppose the case of a director of a national bank in the city of Washington conniving and colluding with a paymaster to get possession of Government funds, by which that paymaster becomes a defaulter, and after that money is lost, not a dollar of which ever gets into the bank, as was intimated by the Senator from Michigan in regard to this case—and after that money is lost the man who has thus colluded with the paymaster of the Government to obtain these funds and squander them then robs the bank of which he is a director and places that money there to make good the default, would it be said that that justified the robbery?

The case does not admit of discussion when the facts are understood; but there is no committee of this body and there is no committee report that can answer objections when they are developed from gentlemen's own imaginations. There is not, as argued by the Senator from Michigan, an iota of proof to warrant the idea that the assets which were stolen from the Government by Hartwell ever found their way to the First National Bank of Newton—not a dollar, not a cent, not a single item of the securities, and yet he argues this case as though the same funds came back from the Newton bank which went out of the subtreasury by the default of Hartwell and of Mellon, Ward & Co. That is not the fact.

Mr. CONGER. The Senator will allow me to say that I did not argue that they were the same funds. I did not intend to say that they were the same funds, but I said that they came back through exactly the same source, and from the same person who took out of the subtreasury the money. The transaction was by the same person.

Mr. JACKSON. The RECORD shows that the Senator did say what I have stated. But let me go on. The bank had nothing to do with the original embezzlement, and the highest courts in the land have ascertained every fact in this case, and have stated that by no possibility could the act of Dyer, the cashier, and Carter, the director, have transferred the title either to Hartwell or to the United States in those assets placed there to make good the previous robbery. The United States is first robbed, and after that the money is squandered and lost in speculation, and then the three parties robbed the bank and it is proposed to say that that robbery in favor of the United States is valid and should be sustained.

Mr. President, no interest was allowed in this case as I have stated before; none was allowed after the rendition of the judgment, though every compliance was made with the law, and a committee of the House under some report and under some bill are seeking to give interest from the date of the rendition of the judgment; and that is appealed to here to break down this meritorious claim.

I think it would be a shame for this Government to shield itself behind the fraud and rascality of agents to make a profit out of other people's money, use it to sink and satisfy its own interest, to cancel its own interest-bearing obligation, and employ that money to stay and stop interest on its other obligations, and then to say "we will profit by that fraud" and deny to the private citizens the relief which every court in the land would grant as between private individuals.

How does the fact that the statute forbids jurisdiction to the Court of Claims to allow interest except in cases where it is expressly stipulated for bear on this case? That does not meet the obligation of the Government in a case like this where the private relation of debtor and creditor was not voluntarily assumed. Here is a case where it was involuntarily assumed. The bank was robbed, in the language of the court, and its stolen assets used to make good the previous default of the Government's agent; and at the time of the appropriation the chief clerk was told by Hartwell that these were the assets of the bank of Newton. That is the whole case. If there ever was a case that called for the payment of interest for the honor of the Government this is one.

Mr. COCKRELL. Mr. President, it is remarkably strange to me why it is that the distinguished Senators advocating the payment of interest in this case will not come down to the plain, naked fact that Carter was the special agent of the bank of Newton. My friend from Tennessee spoke of Mr. Carter as a member of the firm of Mellon, Ward & Co.

Mr. CAMERON, of Wisconsin. If he were a special agent he was a special agent for some purpose. What purpose was that?

Mr. COCKRELL. I will read what the court says. I never heard of the case until I found the facts stated in the Court of Claims report, upon which you rely. I will read it:

> At the same time the said Carter was a special agent, in Boston, of the Newton bank, appointed by the directors thereof, to transact the business of the bank connected with Government, and to assist the cashier of the bank in matters pertaining to the bank which required attention in Boston.

He was the general agent of the bank of Newton in Boston. Let me read a little further. Finding 7 is:

> At the same time the Newton bank had been appointed, and was, a depository of United States moneys; and received also deposits of collectors of internal revenue; and received from the Government of the United States fractional currency and revenue stamps, ordered by it from the Treasury at Washington, in which said bank did a large business, often sending orders to the Treasury to the amount of $30,000 a week.

Then I read the eighth finding:

> At the same time the said Carter was a special agent, in Boston, of the Newton bank, appointed by the directors thereof, to transact the business of the bank connected with Government, and to assist the cashier of the bank in matters pertaining to the bank which required attention in Boston. The Newton bank ordered the fractional currency and revenue stamps to be delivered, for the sake of convenience, to Carter, in Boston, by mail or express, for they were to be used in that city; and he disposed of the stamps to banks, stationers, and other parties requiring them, and the fractional currency to banks and manufacturing corporations, and returned to the bank the funds derived from such disposition, and those funds were placed by the bank to the credit of the United States Treasury. The stamps were usually sent by mail to Carter by the Internal Revenue Department, and the currency was sent by the Treasury Department to him by express—usually $10,000 at a time—packed in sealed paper boxes.

There he was the general special financial agent in the city of Boston of the bank of Newton, receiving money from the United States, appointed to transact business with the officers of the United States. And now what did he do? Let us see:

> Prior to the 1st day of March, 1867, the said Mellon, Ward & Co., acting by and through the said Carter, had succeeded in inducing the said Hartwell to take out of the subtreasury in Boston, at various times, and place in Carter's hands large amounts of money belonging to the United States, until, first and last, the sums which Hartwell so let Carter have aggregated a million to a million and a quarter dollars.

They were speculating upon these funds and there had been no adjustment of the account. About the last day of February it became necessary to have an account and settlement; the funds in the subtreasury had to be counted, and this man Carter, the special agent of the Newton bank, was the man who went to Hartwell and told him how he could arrange the whole thing; that he would get these drafts and certificates of deposit, and he would take them and place them in the subtreasury, and they would be counted, and the moment they were counted then Hartwell was to deliver them back to him, and he would put them in the bank; and in that way would tide the matter over until they could have a settlement of their transactions. Hartwell was the only living man in the subtreasury (and he was merely the disbursing clerk) who knew anything about it. The Senator from Tennessee speaks about the chief clerk, Mr. Whittle, knowing about this matter. That was after all the larceny and stealing had been committed.

Mr. JACKSON. I beg your pardon.

Mr. COCKRELL. I beg your pardon. I speak by the record as it is, and I challenge the Senator to show one solitary thing contrary to this statement in the record in the Court of Claims.

Mr. JACKSON. It was the 28th of February.

Mr. COCKRELL. Everything was done then; the assets were there; and Hartwell saw that the storm was coming, and he went and made a confession. That was all there was about it. Hartwell told Whittle and the subtreasurer that he and Carter had been speculating with the Government funds and they had lost, and these things had been put there by Carter, and thereupon the officers of the United States did their duty: they refused to let the thief, Carter, have the securities; they refused to let the principal of the thief Carter take away the stolen goods which he had obtained from the bank as its trusted

agent and placed in the hands of the innocent officer of the Government. They did exactly right; and now because the officers of the United States would not recognize the stealing by the scoundrel Carter and his seduction of an employé of the Government by leading him astray and inducing him to permit him to use the funds of the people for speculation, doubtless with the intention of dividing the profits, the tax-payers are to be made to pay $249,000, in violation of the acknowledged and well-established principle of law that no claim against the Government draws any interest until it is in the form of a judgment of a court of competent jurisdiction; and there is no reason why that principle of law ingrafted upon our statutes and maintained there for half a century or more shall be set aside in this case. The committee recommend the absolute repeal of that law in this case.

I have been here now nearly ten years, and it is the first instance in the history of the United States Senate in the last ten years that an attempt has been made to override that well-established principle of law, of the statutes, that the United States shall not be made responsible for interest. Here is a case where the principals, who employed a thief and enabled him to seduce and lead astray a poor Government clerk, are trying to take advantage of the larcenies of their own trusted agent, and advantage of the seduction of a mere clerk in the subtreasury, and make the tax-payers of the United States responsible in $249,000; and the Senator from Tennessee thinks that it is a strange thing that a Senator should speak in behalf of the tax-payers of the United States to prevent the payment of this $249,000 as interest on what was stolen by their agent.

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business.

Mr. JACKSON. I wish simply to say that I was not talking about the tax-payers or anything but the justice of this claim.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. 491) for the relief of John W. Franklin, executor of the last will of John Armfield, deceased.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 2799) to authorize the construction of a bridge across the Mississippi River at Memphis, Tenn.; in which it requested the concurrence of the Senate.

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 pending question being on the amendment proposed by Mr. SLATER in section 4, line 14, after the word "class," to insert:

Or shall charge or receive any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction.

Mr. HOAR. I have but a word to say to correct a statement I made the other day. In speaking the other day of the railroad commission and the railroad policy of my own State, I said that while there was a short haul law, so called upon our statute-book, the railroads were not held by it. I think I ought to qualify that statement by stating a fact which has since been called to my attention by a friend in the other House, though I had myself proposed to make the statement before he called the matter to my notice.

There has been no enforcement of that law by the courts so far as I am aware; on the contrary, the only attempt to enforce it failed in consequence of a decision that it was not applicable to the particular case before the court; but the railroad commissioners have certainly in one instance, if not in more than one, called the attention of the railroads to the fact that complaint was made of their charging a larger sum for short distances than for long distances, and the railroads have yielded to the expostulation of the railroad commissioners and reformed their practice in the particular case. I have no doubt that the existence of the law upon the statute-book, and the fact that if the suggestion of the railroad commissioners was not complied with further action might be had, had considerable effect in causing their recommendations to be acceded to; and to that extent I ought to modify what I said the other day, supporting so far as it did go the argument on the other side.

Mr. VAN WYCK. Mr. President, I suppose the Senator from Massachusetts will concede that an enactment of that kind by the Congress of the United States might have a similar effect upon the railroad system throughout the country.

Mr. President, the position of the Senator from Iowa [Mr. ALLISON] that this act of justice proposed in the amendment of the Senator from Oregon will necessarily increase the through rates can not be sustained. The through rate is controlled entirely by other considerations. He says competition from Chicago east is on account of the great lakes and Erie Canal. The railroads now charge up to the highest point water competition allows, and justice to the local shippers could not increase it.

West of Chicago we have no water, therefore no real competition; instead, a system of discrimination and pooling, which the Senator [Mr. ALLISON] alleges is just the thing to protect railroad property.

Mr. ALLISON. Will the Senator allow me to interrupt him?

Mr. VAN WYCK. Certainly.

Mr. ALLISON. I desire that the Senator in making his remarks shall not address himself personally to me and put words in my mouth which I have not uttered. I have said no such thing as is now quoted by the Senator from Nebraska anywhere in any remarks that I have made upon this question.

Mr. VAN WYCK. If the Senator has not used the words his whole line of remark spoke them distinctly. The Senator was arguing substantially from beginning to end that injustice would be done commerce, and when he speaks of commerce he necessarily means the railroads, the channels of commerce, by the amendment proposed by the Senator from Oregon. He said it would be injustice to the people in his State and in mine, because when you decrease the local rates you necessarily force the railroad companies to increase the through rates where competition exists, and, therefore, it was that the proposition to provide that the local rates should not extend beyond the through rates would drive corporations to the necessity of increasing the through rates. That was the argument of my friend. And is that not saying by argument as strong as the Senator could make it that the system we have now is just the thing to protect railroad property and to protect commerce?

The Senator spoke of the water routes being in competition with railroads. So it is from Chicago east; and the rates from Chicago to New York—I think no one will deny that—are fixed on the basis of the water communication by lake and canal; and, therefore, it is no matter what may be the local rates between Chicago and points intermediate to New York; they do not control the through rates, but they are settled by the water communication and the water competition. The Senator well knows that west of Chicago there is no real competition. It is true we have now through his own State and reaching the Missouri River from Chicago no less than six railroads. The through rate from Chicago to Omaha and Council Bluffs is established, because the roads pool and do not compete. Under no circumstances would the roads think to raise it even though compelled to stop extortion on local shippers.

Years ago there were three roads from Chicago to Council Bluffs. Now six or more. Are the rates lower now than when three roads were running? Every new road forces itself into the pool and carries on competition only to secure that end. The great elevators at Council Bluffs, Des Moines, and other cities in Iowa, owned or controlled by a railroad ring, can reach the ears of the Senator from Iowa and assure him the present management is complete, but the multitude of business men and small operators, if enjoying his confidence, could illustrate the extortions which injure business and paralyze trade.

Mr. President, since 1872 all political parties in national and State conventions with great unanimity have demanded redress from grievances in transportation—that no more grants of public lands be given to corporations and that lands not earned be restored to the public domain. Since 1872 the great corporations have stifled the cry of the people, have paralyzed Legislatures and Congress so that but little of redress and no forfeitures have resulted.

WHY?

Jay Gould in his testimony before a committee of the New York Legislature, and Huntington in his wonderful letters, giving historical and biographical sketches of legislators in Congress, make mysterious revelations as to how they claim this work of infamous betrayal of the people is accomplished. So often deceived, their sufferings yearly more intense and bitter, power of corporations more aggressive and defiant, the people have become more in earnest, even to the sundering of party ties.

WARNINGS.

Warnings of the great men long since passed away seem like inspirations. The teachings of Jefferson, discarded by his own party when he declared that in the contest on account of slavery there was no attribute of Deity that could side with them, were made the corner-stone of the Republican platform, and in a hundred battlefields his truths became historic. His other great denunciation of the injustice and despotism of monopoly will become equally so. Had we in our legislation made that the keystone of the arch, as the other the corner-stone, the legions of Democracy had never prevailed against us. Politicans may have a blind man's holiday searching for the reasons of our overthrow, but to the people there is no mystery. So Jackson's proclamation that the Union must be preserved, denounced by his own, became the shibboleth of the party the people spoke into existence and continued for a quarter of a century—became history in the hour of the nation's victory. Had we as devoutly followed and drawn inspiration when he denounced the machinations of monopoly, not now, at the demand of the enemy, would we surrender our baggage and camp equipage.

DISASTER.

We seem to learn no lesson from disaster, and are still trying to amuse and cajole the people, forced to seem to do something or go into still greater retirement in the expiring days of great achievements, when the people have emphasized their determination by the defeat of

an organization to which they are still attached. Party managers seem determined their cry shall remain unheeded. They ask for forfeiture. You would give it with such conditions and limitations as will not secure it in another quarter of a century; this through the specious amendment of the Senator from Alabama under the claim of a worshipful respect for the Supreme Court, when the same court in the decisions to which he refers expressly hold that Congress has the power to declare forfeitures which are so absolute that the courts can not disturb them.

POPULAR CLAMOR.

The Senator from Alabama thanked God he had the courage to disregard popular clamor. Many men have done the same without feeling the necessity of thanking God. They had sufficient respect for the Almighty not to hold Him responsible for any such performance.

Politicians not even Senators do not always have that contempt for popular clamor—not when themselves or party seek position. How earnestly they excite, and how gracefully they glide into place and power by, popular clamor!

There were men in the days of the Revolution who boasted they yielded not to popular clamor, but after seven years of privation and war the birth of a new republic showed that in popular clamor the voice of the people was the voice of God.

So in 1860 there were men in the North who boasted they had the courage to despise popular clamor, which grew deeper and more in earnest to resist the aggressions of slavery; still they boasted of their contempt for it, even when that popular clamor was the voice of the nation. And when in the nation's triumph came the second birth of freedom, and the fire-bells in the night, referred to by Jefferson, were sounding the ring of victory, and this country had become in fact as well as in name the land of the free, the voice of the people was the voice of God.

So, to-day, Senators from the Northwest, while the dwellers on the plains of Iowa, Kansas, and Nebraska are suffering with granaries full to overflowing and compelled to burn corn as fuel, while the toilers in Wisconsin and Minnesota are selling wheat below the cost of production and secure but a fraction above what the pauper labor of India receives; the Senators from Pennsylvania, where the dependent and unemployed are denied the privilege of increasing production of coal and are suffering for the corn consumed on the prairies; the Senators from New York, where, with bended head, sorrowing heart, and weary fingers, women stitch, stitch their famishing lives into shirts at 3 cents each while perishing for wheat, which the Western farmer produces at an actual loss; the Senators from New England, where thousands of men and women with haggard faces and children of tender years, prematurely grown old, stand, begging to toil, at the closed doors of her factories, where tariff protection had promised immunity from suffering and the privilege to labor at fair recompense—they can all unite in the proud boast of the Senator from Alabama that they have the courage to oppose popular clamor.

But through suffering and gloom, but not through blood and prison-pen, the final victory will again come when, as in '76 and '60, the day of final rejoicing will demonstrate that the voice of the people is the voice of God.

RAILWAY REGULATION.

Now, the people are demanding—and most of the Senators are here on that platform—the regulation of railways and protection from their extortions, and while they "ask for bread you give them a stone."

You propose to amuse them with a commission without power, which really gives the citizen less redress than he has at common law, furnishing an expensive association of five men with a salary to each of $7,500 per annum, much greater than members of Congress receive, and with necessary expenses while traveling, which, by the practices of the Treasury Department, mean expenses for railroad fare, sleeping-car and porter, hotel and laundry bills, wine and lager-beer; so that the salary exceeds that of a Cabinet minister or judge of the Supreme Court. With all this they are given no power to correct abuses or redress wrongs. The only thing required is to write essays.

The bill passed in the House known as the Reagan bill is infinitely better. It declares offenses, affixes penalties, directs the prosecution, and allows the citizen to select attorneys and a State or Federal tribunal. The Senate bill denies all these privileges, and makes the latter end worse than the first. The people only demand reasonable rates, no discrimination, no pooling, no rebates, no greater charge for a short than a long haul.

THE REAGAN BILL.

All these are in the bill passed by the House. And if the Senate is in earnest to redeem pledges solemnly made by leaders of both parties, ostentatiously proclaimed in all platforms, to obey the resolutions of nearly all the Legislatures of the Union to rescue the people from the grinding of the upper and nether millstone—if we desire to rescue the Senate from the suspicions of the nation that it is controlled in the interest of railroads, we have now the opportunity. The Reagan bill enunciates a few principles which the entire nation believes, furnishes a simple remedy; true, only a beginning, but the entering of the wedge that will in the end rend extortion and discrimination.

This is no time to delay. The work of deception can not longer be carried on. You can not pretend a willingness to do something, and that an obstinate or unwilling House of Representatives refuses. If the Senate falters now to accept the House bill, an indignant people will believe that it "palters in a double sense" and is seeking by disagreement to prevent the legislation so long sought and long denied.

The Senate bill promises nothing, not even a slight veneering; the people are in no mood to be trifled with or deceived. It will be an unfortunate day when a Republican Senate declines to accept a measure adopted by a Democratic House in the interest of the people. Our hesitancy now will be our voluntary accusation and will prove in the end our condemnation by the people.

NATURAL LAWS OF TRADE.

The Senator from New Jersey [Mr. SEWELL] innocently believes that railroad corporations, like kings, can do no wrong; that stocks and bonds represent actual money expended; that pooling is one of the sources of our national prosperity, and under that we can never be miserable. I commend to his careful consideration the decision of an Ohio court that a railroad had actually wronged a citizen of that State by discriminating against him in favor of the Standard Oil Company, a gigantic corporation, into which railroad magnates had entered; wronged the State by driving honest men out of business, the extent of which may be imagined when it is reported that this company has received in rebates from railroads $10,000,000 in sixteen months.

This adjudicated case is only one of thousands establishing the injustice and robbery of discrimination extending to all branches of commerce, to grain and meats. They own and control elevators, and the farmer, if he desires, can not possibly ship his own grain and cattle, for he can obtain no rebates. Then, that no greater sum shall be charged for a short haul than a long one, the West is to be frightened by the threat that no more grain can be shipped to the East. The proposition does not affect the through rate, only this—no more shall be charged for hauling a car from New York to Philadelphia than from New York to Chicago; no pretense that the charge should be a pro rata of the through rate; only, no more should be charged for carrying a car fifty miles than five hundred miles. No farmer in the West is opposing this. Only railways see a lion in the path.

The power of absolute control by railroads is not always exercised in a saintly manner by the saints certified by the Senator from New Jersey [Mr. SEWELL]. Let me illustrate: The Union Pacific became incensed at Columbus, an active interior city of Nebraska, whose citizens were enterprising and aided to secure another road, thinking the natural laws of trade would promote their prosperity. But the Union Pacific became indignant at this attempt on the part of a public-spirited community for the development of the natural laws of trade, and determined they should be punished for such temerity and rebellion, for Columbus was called, in the vernacular of railroads, "in their territory." So rates were changed, and more was charged per car-load from Omaha than to Kearney and points farther West.

So, the Central Pacific, without the excuse of revenge or punishing rebellious subjects in their territory, actually charge to points east of San Francisco through rates to San Francisco and then local rates back. For instance, from New York to San Francisco a car is charged $300. That must be considered according to railroad honesty a fair rate, for they fixed it without competition. Then to a point six hundred miles east of San Francisco, where the car is stopped, they charge $300, the rate to San Francisco, and $500 back, the local rate, making that car cost $800, while the one carried six hundred miles farther is only charged $300. Is it not evident railroads should be restricted from exacting more for the short haul than the long one? Will some Senator defend this, and then show how the natural laws of trade can stop such outrages? The same is practiced on the Northern Pacific.

STOCK-WATERING.

The Senator from New Jersey [Mr. SEWELL] also says, with apparent earnestness and innocence, that he thinks the stock is not much watered, very slightly diluted. Poor's Manual, an acknowledged authority with railroad men, shows that nearly two-thirds is watered. If that does not satisfy the Senator I beg to refer him to a letter written April 23, 1884, by a distinguished statesman from his own State, in which he says:

> By purchase on the same terms as they were sold on the Boston market to all applicants; sold to * * * and to other reputable merchants. He negotiated for a block of the securities, which were divided as usual in such enterprises into three kinds—first-mortgage bonds, second-mortgage bonds, and stock. The price, I think, was 3 for 1. That is, the purchaser got first-mortgage bonds for his money and an equal amount of second-mortgage or land-grant bonds, and of stock thrown in as the basis of possible profits. * * * I went myself at this time into several adventures of the kind on that ratio, and have always understood that Senator —— and his friends got their interest in the Burlington and Missouri road on the same basis of 3 for 1. * * * I know of my own knowledge that Governor ——, Mr. ——, and Senator ——, and many of my friends while in Congress acquired and held interest in such enterprises.

He says that he made his investments on that basis, and that the men of Boston do this. That, of course, is the end of the law and testimony. Boston does it approvingly; that probably accounts for the disregard of popular clamor by New England Senators.

Certainly, stocks and bonds according to this evidence are owned in this Chamber and the other end of the Capitol on that basis; that is, you put down one dollar and take up three. So it would appear even members of Congress learn where the little joker is.

No wonder there is here manifested the same contempt for public clamor as Vanderbilt is said to have exhibited in language more forcible but not so reverential as by distinguished Senators.

According to the written and printed statement of one New Jersey statesman and Poor's Manual $4,000,000,000 fictitious watered stock is represented in the stocks and bonds of railroads. On this, interest and dividends are collected from the people, made a mortgage on every acre of land in the Republic—an inflation paralyzing industry, laying a tax upon the producer and consumer; yet we must remand all this to the natural laws of trade.

Who are the railroad corporations for which so much sympathy is expressed in this Chamber? Mainly a half score of syndicates of millionaires, made millionaires by the manipulation of these same roads. We are asked to further submit to extortion and stock-watering on the plea of the "innocent purchasers." For the last ten years there have been few innocent purchasers without notice. Whoever buys railroad stocks well knows the hazard he runs. The whole world is advised of the suspicions and fraud attending. The Senator from Massachusetts [Mr. HOAR] must well know that since the report he in part made as Representative in the House denouncing the frauds of the Union Pacific, frauds which he and his colleagues said were sufficient to have the charter forfeited, the crimes and frauds which he denounced not only were continued, but increased and made public, so there could be really few innocent purchasers; but the small holders of stock, supposed to be innocent, are only used as a breastwork behind which the managers can hide and inveigle Senators into their service.

JEFFERSON AND JACKSON ON MONOPOLIES.

Pardon a sentiment from Jefferson:

The truth is that capital may be produced by industry and accumulated by economy, but jugglers only will propose to create it by legerdemain and tricks with paper. * * * Our citizens will be overtaken by the crash of this baseless fabric without other satisfaction than that of execrations on the heads of those functionaries who from ignorance, pusillanimity, or corruption have betrayed the fruits of their industry into the hand of projectors and swindlers. * * * It is raising up a moneyed aristocracy in our country which has already set the Government at defiance. * * * These have taken deep root in the hearts of that class from which our legislators are drawn. * * * And thus those whom the Constitution have placed as guards to its portals are suborned from their duties. * * * A general demoralization, a filching from industry its honest earnings wherewith to build up palaces and raise gambling stock for swindlers who are to close their career of piracies by fraudulent bankruptcies. * * * My dependence for a remedy, however, is with the wisdom which grows with time and suffering.

So Jackson, whom the 8th day of January keeps in grateful remembrance, said:

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. * * * In the full enjoyments of the gifts of Heaven and the fruits of superior industry, economy, and virtue every man is equally entitled to protection by law. But when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society, the farmers, mechanics, and laborers, who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their government. There are no necessary evils in government; its evils exist only in its abuses. * * * Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by acts of Congress.

At this day Jefferson and Jackson would be stigmatized as cranks and demagogues. They did not evidently bless God that they "were not as other men," and take courage to repel popular clamor. So did not the great Lincoln, who boasted that he did not create, but followed and was guided, by popular clamor.

CORN AND COAL.

In Kansas and Nebraska fifty bushels of corn will not purchase one ton of soft coal; one hundred and fifty bushels will not buy one ton of hard coal. Your sympathy expands for the pauper labor of Europe and India, while your hearts seem steeled against the cry for bread from the Americans who are forced to work at starvation wages or have their places supplied in the mines, by the specially protected mine-owners, by pauper and convict labor imported under contract from Europe.

You see an embargo placed upon the transportation of corn to the East and coal to the West—and you relegate to the tender mercies of Gould and Vanderbilt the problem of the natural laws of trade, to the uncontrolled avarice and extortion of stock gamblers, who are as merciless in demanding interest and dividends on 4,000,000,000 watered stocks and bonds as English landlords, who would take bread from the mouths of the Irish tenants. Possibly a Representative or Senator might be as unwilling as either to forego any legislation that would depreciate the three dollars for one actually expended, and to consent to any legislation which would prevent the usual dividends on stocks and bonds for which he paid nothing. So, too, in Minnesota and Wisconsin, the men who elect Representatives and Senators on the theory they will represent them and protect their interest must give nearly twenty bushels of wheat for a ton of soft coal or forty for a ton of hard.

In the CONGRESSIONAL RECORD of December 20 last, "The railways will elude, evade, and openly transgress the restrictions;" "The railways, if these restrictions should become laws, will ostentatiously break them all;" said to have been uttered on the floor of the House of Representatives.

A Senator from New Jersey [Mr. SEWELL] blandly gives them saintly attributes—a New Jersey Representative refers to them as despotic as masters, and gives notice that the laws will not be obeyed; still this property goes on capitalized on the basis of 3 to 1.

MORAL SUASION.

The Senate bill is gentle moral suasion very much watered.

This is the bill the railroads have been begging from Congress, just as the amendment of the Senator from Alabama is providing the panacea they have been desiring to administer to the American people, not only begging but denouncing Congress for not creating a commission. Only yesterday, in the city of New York, where her merchants before the railroad commission were seeking the redress given by that State, the New York Central and Vanderbilt appeared and by counsel, substantially admitted the grievances, and claimed that it was an interstate grievance, and any action there could only affect New York roads. Said the eloquent attorney, "What is needed is the appointment of a national commission, having powers similar to those of the New York and Massachusetts boards. If the idiots at Washington would establish such a board much could be done to rectify whatever grievances exist, and which are conceded." This was more unkind than the gentle suggestion of the Senator from Kansas [Mr. INGALLS], who intimated the Senate was only "suspected," whereas the New York Central insists it is idiotic. The public at large will accept one or the other of the conclusions suggested.

We trust, now that Vanderbilt has given his approval of some power in a commission, that the Railroad Committee will consent to insert in their bill that quantum of power which Vanderbilt kindly assures us in advance he will accept.

The Senator from Iowa [Mr. WILSON] is fearful we will do too much. Pass this bill, he need have no anxiety; it will be as near nothing as legislative dexterity can make it. Here is a great and acknowledged wrong. The people of every State understand it if Senators do not. The remedy is simple. Make extortion, discrimination, and pooling a crime, provide penalties, and make the State and Federal courts open, and you will then have made a beginning. There should be no dread in that even for a Senator from Iowa.

The modesty and meekness and confession of ignorance is amazing. This body claims to be fully informed on every subject of legislation—about Japan, China, India; as to the sufferings of the nations from the exactions of England, Russia and Turkey, Congo and Africa; even willing to grasp the great problem of a commercial treaty with Spain and a treaty for building a canal with Nicaragua, if correctly reported in the newspapers; but the entrance of the railway problem strikes consternation and paralyzes this great body into a protestation of weakness and ignorance, and they try to conceal each and distract the nation by seeking refuge in a commission.

To-day the farmers in the West are working their own farms on shares, the railroads taking the lion's share; they receive not a dollar profit or interest on money invested in land, teams, and machinery. Other industries are equally depressed. Yet the American Senate seem intent on how not to do it; determined, at whatever sacrifice, that railroad stocks and bonds shall secure liberal interest and dividends, and great lamentation is made if stock gamblers, who have stolen $4,000,000,000 from the industries of the nation, shall be disturbed in wringing interest on the same from an overburdened people. You stand apologizing for the swindlers who are wrecking still more the prosperity of the people.

THE CONTRAST.

Look at Kansas and Nebraska, great and rich in the wealth of their soil, the energy and intelligence of their people; yet Jay Gould, who neither toils nor spins, has greater wealth than the assessed property, real and personal, of both States. And Vanderbilt could buy both States, their farms and lands, villages and cities, hotels, banks, manufactories, and railroads, and have a snug fortune of $40,000,000 left for the necessaries of life and to keep the wolf from the door.

NO NEED FOR APOLOGIES.

Do you believe these millions were acquired honestly and by legitimate means? Yet the Senator from Iowa [Mr. WILSON] trembles lest we shall do too much, and before these worse than feudal robbers we must seem to apologize and indicate the awe with which these colossal wrongs are approached and the great risk we are assuming, and disclaim our hearty disinclination to rend the spoiler of his prey. In the language of the Senator from Kansas [Mr. INGALLS]:

I do not stand here in any sense whatever as the advocate or champion of that cheap system of demagogy that appeals to public opinion against railroads. I would as much resist injustice to railroads as I would resist injustice to the humblest settler in the remotest dugout upon the frontier of the West. Railway corporations are the creatures of the law. They are entitled to the protection of the law.

The two men who each can purchase the States of Kansas and Nebraska certainly need no proffer of assistance. No possible danger of injustice can come to them. It is the dweller in the dugout who with raised hands is appealing to the protection of the law. The Senator never believed strong and arrogant slavery in the days of its control of Congress and the judiciary needed sympathy and proffers of assistance as did the slave manacled and cringing beneath the lash. Cor-

porations behind four billions of stolen property, for years controlling State Legislatures, the national Congress, the judiciary as remorselessly as did slavery, need not the sympathy or active support of Senators. It is the toiler seeking labor in the furnace heat, in the underground labyrinth, the settler in the dugout on the frontier of Kansas and Nebraska, whose wives and children are drawing warmth from corn because great corporations refuse to reduce the rates of freight so the coal of Pennsylvania may be exchanged for the corn of the West.

This position is sustained by an authority which will not be questioned by any Senator. Charles Francis Adams, jr., now the president of the Union Paific Railroad, in his chapters on Erie years ago, spoke of the great State of New York as enslaved by two great corporations, the New York Central and Erie:

> Vanderbilt, embodying the autocratic power of Cæsarism, introduced into corporate life the Erie ring, representing the combination of a corporation and the hired proletariat of a great city. The system of corporate life as applied to industrial development is yet in its infancy. It always tends to development, always to consolidation. It is ever grasping new powers or insidiously exercising covert influences. Even now the system threatens the General Government.
>
> In a few years more we shall see corporations as much exceeding the Erie and the New York Central both in ability and will for corruption as they will exceed these roads in wealth and length of iron track. We shall see these great corporations spanning the continent from ocean to ocean. Now their power is in its infancy. In a very few years they will re-enact in a larger theater and on a grander scale, with every feature magnified, the scenes which were lately witnessed on the narrow scale of a single State.

His prophecy of fifteen years ago is history to-day. Does the Senator from Kansas [Mr. INGALLS] believe that Mr. Adams at that time "stood as the advocate or champion of that cheap system of demagogy that appeals to public opinion against railroads?"

For twenty years these corporations have grown rich, strong, and defiant, in violation of law, and now let us see to it that the protection of the law shall be given to those who are the victims of their extortion.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin). The question is on the amendment offered by the Senator from Oregon.

Mr. COCKRELL. Let the amendment be read.

The PRESIDING OFFICER. The amendment will be read.

Mr. MCPHERSON. I should like to have the amendment read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. In section 4, line 14, after the word "class," it is proposed to insert:

> Or shall charge, or receive, any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction.

Mr. MCPHERSON. Before proceeding to discuss the amendment, which I shall do very briefly, I wish to state that I did not correctly understand or hear the references made by the Senator from Nebraska to the position I had taken upon this question. If there is anything for me to answer in what he has said, when I see his speech in print I will undertake to answer it then. But I should like to have the Senator from Oregon give me a little attention in order that I may vote intelligently on the amendment which he has offered.

It seems to me it can not be possible that the framers of the Constitution ever intended any such exercise of Congressional power as is embodied in the amendment he proposes. As there is no way of presenting a subject so forcibly as by illustration, if the Senator from Oregon will permit me to illustrate my argument, I will then wait for an answer. It is well known to the Senator that there are different stages of transportation. There is a line of railroad, say, starting from New York that runs to a certain great distributing point, as Buffalo or Pittsburgh, and there ends. There are other lines of railroad separate and distinct in their organization, yet perhaps composing in a measure parts of the eastern trunk lines reaching from Pittsburgh and Buffalo to Chicago. I name Chicago because it is the greatest distributing point in the West.

I will now mention two railroads whose tonnage is greater than that of any two other railroads in the world, the New York Central Railroad and the Pennsylvania Railroad. The New York Central is within the territory of a single State in which the laws of that State are supreme, and is entirely beyond the grasp of the amendment of the Senator from Oregon which he proposes to this bill. It runs for four hundred and fifty miles, or one-half the distance from New York to Chicago, in one State. The Pennsylvania Railroad, in like manner starting from the city of Philadelphia, is within the territory of a single State, subject not to this law but to the supreme control and power of that State, and it runs almost an equal distance toward Chicago, the great point of distribution, in one State. These two railroads, subject only to State control and beyond the reach or grasp of this bill, make such local rates as the State laws permit. As to the other lines starting from both Buffalo and Pittsburgh as objective points, these roads make such rates to Chicago as will best tend to destroy their adversaries. Who are the adversaries? Let me name them.

The West Shore Railroad is an interstate road under the provisions of this bill. It runs through the States of New York and New Jersey. The Delaware, Lackawanna and Western, another competing line, runs through the territory of three States, to wit, New York, Pennsylvania, and New Jersey. The New York and Erie Railroad, another great trunk line, runs through the territory of three States, New York, Pennsylvania, and New Jersey, yet it has both ends of its line in the State of New York. The Baltimore and Ohio Railway between Pittsburgh and Baltimore runs within the territory of three States, Pennsylvania, West Virginia, and Maryland. Two of the railroads I have named therefore as to every act and thing within the power or control of the corporation are within the territory of a single State; they make such rates as the State laws permit, while the other lines, the West Shore, the Delaware and Lackawanna, the New York and Erie, the Baltimore and Ohio, the Lehigh Valley, and such other lines as may connect with them, are interstate railroads within the meaning of this bill.

The New York Central may take freights at Buffalo low for the purpose of driving a rival out of the city of Buffalo, say at $10 a car for through freight between Buffalo and New York, and that will not interfere with or in any manner control the rates for local traffic on that road, while if the Erie, the West Shore, the Delaware and Lackawanna, and other competing lines reduce the through rate to $10 a car they will be required to reduce the rate on local traffic in the same proportion. Thus it is within the power of the two great corporations to absolutely bankrupt the others and to drive them out of the market entirely. Is not that plain? The others, being interstate railroads, would be forced to make their local rates proportionate to the through rates; while the two stronger corporations, located as I have named, would have the power to earn sufficient on local freights, added to the rates on the through business, to give them a reasonable compensation for the whole. So it is made the interest of both these great roads to drive off every rival, and when that is done they can make such rates as they please.

Mr. President, I do not believe it was the intention of the framers of the Constitution to put in the power of any body by legislation here, however just and fair and equitable it may seem upon its face, to destroy capital in that way. The bonds of the Erie Railway, the West Shore, the Delaware and Lackawanna, and the Baltimore and Ohio are held by whom? Very largely by trust companies, fiduciary trusts, the property of the widow and the orphan in very many cases; and I believe it is as much the duty of Congress, if it can be done without violation of the great public interests of all the people, to refrain from legislation which absolutely, in effect, destroys the property of those unable to defend themselves. When you come to add together the vast amounts of money dependent upon fair and equitable rates of transportation which are held in investments by parties entirely unable to defend themselves, it certainly seems to me a proper subject for the Senate to consider that interest.

Now, sir, I can not myself subscribe to a doctrine which permits a condition of things to exist that absolutely prevents all competition entirely. The result of the pending amendment added to this bill will simply be to enable the New York Central and the Pennsylvania Railroads, happily located as they are with respect to the terms of the bill, to bankrupt every competing company and at the same time lay such rates as will enable themselves to profit. That is my objection to the amendment. I based my objection to it the other day principally upon the ground that I thought the Senator from Oregon should permit the two main propositions to stand as they appeared before the Senate. When he presents his substitute, as I understand he proposes to do, in the form substantially of the Reagan bill from the House of Representatives, then you will find a bill consistent in all its parts for a practical working machinery; but to ingraft this amendment upon the present Senate bill would be to destroy absolutely its effect and at the same time to destroy the Senate bill. I would rather vote upon the two distinct propositions separately than undertake to revise and reform this bill by the adoption of the amendment offered by the Senator from Oregon, and I submit to that Senator, if I am correct in my view, whether he himself would then vote for a proposition which is so damaging in its results. I should like to have the Senator from Oregon answer the case I have stated.

Mr. SLATER. The Senator's practice is like that of some individuals I have heard of. He imagines a case that suits the purposes of his argument, and then asks some one to meet it. However, I will endeavor to answer some of the points as I have gathered them from the Senator.

He has presented, as illustrations of his meaning, certain railroads having their centers on the east in New York and on the west in Buffalo, and another road in Pennsylvania, from Philadelphia to Pittsburgh, as contrasted with roads that are interstate roads; but more particularly does he draw attention to the case of the New York and Erie as a competitor to other roads whose western terminus is Buffalo and eastern terminus New York, they passing through two or more States and being interstate roads, while the New York and Erie is a road entirely within the jurisdiction of a single State, as I understood him.

Mr. MITCHELL. The Senator will allow me to say that as a matter of fact the Erie road is not wholly within the State of New York, but passes through a small portion of the State of Pennsylvania.

Mr. SLATER. I understand that to be correct; but the question was whether in moving freight from Buffalo to the city of New York the Erie road had not the advantage and could make the charge $10 per car-load.

Mr. MCPHERSON. The New York Central.

Mr. SLATER. The New York Central, I should have said. I understand the pith of the inquiry to be that the New York Central is a

road entirely within the jurisdiction of New York, and the question is asked whether in hauling freight from Buffalo to New York by the Erie or by some of the interstate roads that pass portions of the way through other States with the same class of freight to New York city the New York Central would not have power under this amendment to destroy these other roads.

I do not undertake to say but that it might have some power to damage the other roads. But there is another question that would attach to the freight, and that is what we are trying to reach as controlling this matter. We are not reaching links of railroad, but endeavoring to reach streams of commerce. There are classes of commerce classified as State commerce within one State which are excluded from the operation of our bill. That which comes within its provisions is interstate commerce. The question would be whether a car-load of freight shipped from Buffalo to New York city, both being within the same State, over a line of road that might pass somewhere through some other State or part of some other State, would be interstate commerce or State commerce. My impression is that the place of its original starting and the place of its destination would determine its character as interstate or State commerce if it came from a point outside of New York, and although it might pass through other States in its transit, it would be interstate commerce. What constitutes interstate commerce is that it is commerce that passes from a starting-point in one State to a destination in another State; and in this instance the starting-point and the destination of the freight would be in the same State The fact that it passed through other States would be an immaterial matter.

Mr. MCPHERSON. According to the Senator's own statement, then, I suppose he admits that as to freight taken by the New York Central between New York and Buffalo as local freight it would have to pay local rates.

Mr. SLATER. Certainly; within the limits of one State.

Mr. MCPHERSON. The Senator very well knows that more than 75 per cent. of the grain that leaves Chicago goes to Buffalo by lake. It goes into elevators there for a market, and either for consumption throughout the country or for shipment in this direction or any other direction as occasion may require; and the New York Central as to that freight is not hampered by this bill.

Still further, let me ask the Senator how will this bill reach this condition of things? The main line and the property of the New York Central Railway are within the State of New York. It is also the owner, so to speak, or we will say the lessee, of a line of railroad running to Chicago, or has intimate connection with some railroad running to Chicago. Grain is shipped from Chicago to Buffalo on a separate waybill, without any knowledge, we will assume, on the part of the shipper of what is to be done with it after it reaches Buffalo. It is then taken on another waybill by the New York Central Railroad to New York. It is the habit of the New York Central Railroad and of the Pennsylvania Railroad to make a separate waybill for all property over those distinctive lines of road. The first bill is from Chicago to Buffalo, the second from Buffalo to New York, and to avoid and evade the whole bill, if these railroads should so determine, they could provide that a shipper who shipped his goods from Chicago to Buffalo could then by telegraph order them further, and I wish to know under that condition of affairs if your bill could be made effective?

Mr. SLATER. It would be a matter of very extreme doubt whether that class of freight could be reached by any bill Congress might pass. That course would seem to so affect that class of freight as to make it State commerce and not interstate commerce. Therefore we need not worry ourselves about that class of freight; we need not bring up phantoms here of possible danger or doors of possible evasion to meet a plain proposition that is intended to correct the evils that the country is now suffering from.

Another point. The Senator, it seemed to me, asked if it would not be better that the direct question should come between the House bill and the amendment which is now pending as a subsittute, known as the Reagan bill, instead of this clause being interpolated into the Senate bill, it being, as he said, a different system or framed on a different line of policy. That is a point with me. As was stated by the Senator who preceded the Senator from New Jersey and myself, the Senator from Nebraska [Mr. VAN WYCK], I regard the Senate committee bill now under consideration as the nearest step to nothing in the form of legislation that a bill could be proposed in this body. I want to get something into it that will have some merit in the way of striking at some of the evils; and, unless we can get something of this character into it, it is but a shadow and it will prove to be worthless, so far as regards remedying any of the evils that are now complained of. It may turn out, and very likely it will turn out when the vote shall come between the Senate committee bill now under consideration and the House bill for which it is to be offered as a substitute, that a majority will sustain the present bill and make that the action of the Senate; and if that should be so, I desire in that contingency that we shall have so much at least of the Reagan bill as I have now offered in the bill that shall receive the sanction of the Senate.

I do not apprehend the difficulty that the Senator from New Jersey speaks of in destroying these railroads, or any of them. Suppose his position is correct, and suppose it should turn out when these cases come before the courts that freight shipped from Chicago to New York by a route of transportation that passes through more than one State should be held to be interstate commerce and not State commerce, and that the route of transportation shall determine the character of the freight, not the points of shipment and destination as I think. Suppose I am incorrect in my view, what then? The result is simply that it would devolve upon the State of New York and the State of Pennsylvania to see that injustice was not done within their States. Congress will have done its duty, and it will then devolve upon the State of New York and the State of Pennsylvania to meet Congress and correct the evils within those States and make the system harmonious.

I think I have now answered the Senator's question.

Mr. MITCHELL. Mr. President, I call the Senator's attention to the peculiar wording and connection of this amendment with the fourth section of this bill. As I understand, if the amendment were to be adopted it would be an effort on the part of Congress to undertake to regulate not interstate commerce, but the commerce of the respective States, and I do not suppose the Senator will undertake to say that we have any such authority as that here. This amendment, taken in connection with the operative words of the section to which it relates, would read as follows:

That if any transportation company engaged in interstate commerce shall charge, or receive, any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction * * * it shall be deemed guilty of unjust discrimination.

The Senate will observe that in the fourth section of the bill as it stands the words "in its transaction of interstate commerce" occur in connection with what is declared to be prohibited or provided for in both instances; that is to say, it reads in respect to one of these clauses as follows:

That if any transportation company engaged in interstate commerce shall, directly or indirectly, by any rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater compensation for any service it may render in its transaction of interstate commerce than it charges, &c.

And in the other case it says:

And if any such transportation company shall neglect or refuse to furnish the same facilities for the carriage, receiving, delivery, storage, and handling of interstate commerce freights, &c.

So that the section of the bill now under consideration very carefully provides that the action here proposed shall relate only to interstate commerce, while, as I understand the effect of this amendment, it would relate not only to that, but to the commerce of every State of the Union. It would, therefore, as I have stated, be doing what I think we have clearly no power whatever to do; and, so far as my own State is concerned, if we had the power I could not consent to the doing of that thing, because the people of that State, by the adoption of the constitution of 1873, have regulated that subject for themselves. In the third section of the seventeenth article of that constitution I find the following:

Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates.

Therefore I find myself compelled, if I am disposed to observe what the people of my own State have done upon this subject, to vote against the amendment as proposed by the Senator from Oregon.

But I am not able to bring my judgment to favor this proposition even if it were properly worded. It will be observed, by careful attention to this provision of the constitution of Pennsylvania, that the State convention which framed that instrument employed words very carefully to guard against any possible misconstruction or trouble in relation to this subject.

It will be seen that the prohibition against charging more for a shorter than for a longer distance does not, according to the terms of the amendment now proposed, relate to every case of a shorter distance, but it only relates to cases of shorter hauls where the freights shall be taken up contemporaneously, in the same train of cars, if you please, at the same time and place. The reasons in the one case might be strongly in favor of such a proposition, while in the other, to my mind, they might be and in many instances would be strongly against it. It is entirely a different thing to say, as the Senator proposes by the amendment, that you shall stop at every way station along a great line of railroad to take up freight as well as to deliver it, and that you shall not consider the inconveniences and the increased expense which would attend the adoption of such a rule in regard to the transportation of freight over it.

But, Mr. President, I did not intend and do not intend to speak at any length upon this proposition. Possibly when the bill shall reach a further stage, and the measure which is so radical, known as the Reagan bill, is proposed to be substituted for this bill, I may avail myself of the opportunity to say something further. I take it that the amendment as proposed by the Senator from Oregon does not carefully guard and secure precisely what he endeavors to reach.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon [Mr. SLATER].

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

The yeas and nays were ordered.

Mr. INGALLS. I should like the Senator from Oregon to state whether in his opinion it is right that the railroad corporations should receive the same compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction?

Mr. SLATER. I think there are many instances in which that may be justified. I think I could state a good many instances where it is a very common practice, especially in transporting bulky freight for export and the purpose is to get it to a market where it may be exported, to make common points on the line of the road.

Mr. INGALLS. Suppose it were not more than half the distance? I can readily understand that if the difference was a mile or five miles in a haul of a thousand miles, it might perhaps be *de minimis* to say that the transporters should make a discrimination between nine hundred and niney-five miles and one thousand miles; but suppose the respective distances are five hundred miles and a thousand miles, does the Senator then think it would be right to charge the same amount for five hundred miles that is charged for a thousand miles?

Mr. SLATER. That would be perhaps an extreme case.

Mr. INGALLS. But a possible case.

Mr. SLATER. Under the law as it would be it might be a possible case.

Mr. INGALLS. Is it not a case that occurs every day?

Mr. SLATER. I do not think it is a case that we could properly deal with.

Mr. INGALLS. But now let us come down to the practical aspect of the case. Suppose a railroad company should do that, does the Senator think it would be justifiable; that is to say, if it should charge the same for five hundred miles that it would charge for a thousand miles on the same road, and for carrying similar property, and in the same direction?

Mr. SLATER. I must answer the Senator by making a statement of the case that will show his position to be that because we can not remedy in this provision all the possible evils, because we can not reach all we must not try to reach any. Take the case that I gave the other day, where $200 was asked for a car-load to Portland, Oreg., and $400 was asked for the same car-load to be carried one hundred miles short of Portland. Under the provisions of the amendment the company would have been entitled to charge $200 for the shorter haul. We propose by the amendment to say that it shall not in a case like that charge $400; but now the Senator supposes a case, for instance, five hundred miles farther east of Portland, where the company proposes to charge the same price that it does at Portland. As a matter of course there would be an apparent, at least, if not a real, discrimination, one that perhaps in time we may find some means of remedying or preventing, but they are doing precisely that on the Union and Central Pacific and on the Northern Pacific roads now. All the roads beyond a certain point, I do not now remember where, in the western part of Montana are charging these extortionate rates. Shippers must pay all the way to Portland and then back again, which makes the rate more than double; and because the amendment does not reach a possible danger—the logic of the Senator's question and argument is that—therefore we must do nothing at all. I admit that the amendment will not reach the case that the Senator supposes; I admit that the supposed case would be one of wrong; but the amendment does not propose to reach that class of wrong.

Mr. INGALLS. Does not the amendment justify and permit that wrong?

Mr. SLATER. Not at all. It is possible now.

Mr. INGALLS. Then there is no possible interpretation that can be put upon language. *Expressio unius est exclusio alterius.* It says that the company shall not charge a greater amount, therefore it may charge the same amount, and you leave this whole subject open to the most odious and invidious discrimination about which complaint has existed. That is to say, take shipments of grain from Chicago to New York; if this provision shall be adopted, suppose it costs $100, for example, to ship a car-load of wheat from Chicago to New York city. The amendment, if adopted, will allow the railroad corporation to charge $100 for shipping a car-load of wheat to Fort Wayne, to Cleveland, to Buffalo, and to every intermediate point. That is exactly the evil that is complained of, and when the Senator puts in his amendment the declaration that they shall not charge a greater amount he simply gives away the whole principle.

The amendment is a Trojan horse. It introduces into legislation the worst elements that have ever been complained of in practice and gives them the sanction of law.

Mr. SLATER. The answer to all that is that the railroads practice these very extortions now; and because the amendment does not propose to extirpate all the extortions at once the argument is that we shall not extirpate any of them.

Mr. INGALLS. No, sir; you do not propose to correct any of them. That is where the Senator leaves this question by his amendment. By saying that they shall not charge a greater amount for a short haul than they do for a long haul he leaves it lawful for them to charge the same amount. Therefore the railroad corporation that charges a hundred dollars for a car from Chicago to New York is permitted by the amendment to charge a hundred dollars for a car to a point ten miles east of Chicago. If the Senator from Oregon regards that as an adequate correction of the evil which has existed by way of discrimination by railroad corporations I think he has been excessively unfortunate in his choice of terms.

Mr. SLATER. For years the Central Pacific and the Union Pacific have charged $700 per car for freight to Reno and other points east of the Cascade Mountains, while they only charge $300 per car to San Francisco. Under the provisions of the amendment they could not charge a greater price to Reno or to Virginia City or other points eastward of San Francisco than they charge to San Francisco; but because it does not go so far as to say that they shall prorate, and does not extirpate all the evils that come in there, the argument is that we must do nothing because we can not make a complete equitable arrangement.

Mr. WILLIAMS. Mr. President, this is a very complex and difficult question, but it is perfectly apparent to my mind that there is no justice in the world in charging more for a short haul than for a long one. It can not be justified upon any principle of right or justice.

Mr. INGALLS. Is it right to charge the same for a short haul as for a long one?

Mr. WILLIAMS. No, sir; it is not right to do that. The amendment allows that to be done, but forbids charging any more.

It has been in proof before a committee of the other House that from Omaha city to San Francisco a railroad company would charge $300 for a through trip, and to Virginia City, or a point upon the same road, $800 would be charged. Before the same committee it appeared that from Cincinnati to New York, by a road running through Pittsburgh, nearly twice as much was charged upon a car-load of wheat and flour to Pittsburgh as to New York from Cincinnati. Will any man say that is just or right? Will any man say that the intermediate shippers are to be taxed, that they are to contribute to make up the losses which the railroads may sustain at terminal points by being compelled by competition with other roads to carry at a less rate than will pay a fair and just compensation?

All the railroads do not practice this extortion, let me say. There is a railroad running through my State which does not practice it. The Chesapeake and Ohio Railroad runs from Louisville through Richmond, Va., to Newport News, and has running connections to New York and to Baltimore. The rate from Louisville through for a car-load of cattle, or tobacco, or freight of any kind, is one price, and then they make divisions. At Lexington it is another price, at Mount Sterling it is another price, at Big Sandy it is another price, and so on through; and I have never heard any man complain of any injustice or discrimination on the part of that road. The freights are high, it is true, but nobody complains and everybody is friendly to the road, because its management is conducted upon principles of equity and justice to the people along the whole line.

But we hear complaints on other lines, and what is the occasion? You start a car-load of wheat from Cincinnati or Chicago to New York. The roads pass through Clarksville, Wheeling, and Pittsburgh. If the shipper of flour at one of these points on the road is compelled to pay twice as much as the shipper at Chicago what does it amount to? It amounts to a contribution by the way-shipper of so much money to save the Chicago merchant from any loss that he might sustain by shipping over the longer route. Is there any justice in taxing the man for that purpose at Columbus, Ohio, at Pittsburgh, at Clarksville, or anywhere along the road? These people send their commodities to the same market, and if the shipper living at an intermediate point is compelled to pay a larger amount of freight on his grain or his flour, when he gets to New York he comes in competition there with the merchant who has shipped his grain or flour from Chicago, and as that man gets it carried for half the freight, he must reduce the price or be undersold by the other man, or he can not sell at all.

Mr. ALLISON. Does it not amount to still another thing, if the Senator will allow me to interrupt him? It amounts to enabling the producer of the flour or the wheat, or whatever, at Chicago or beyond Chicago to receive the same price that is allowed to the producer at Pittsburgh.

Mr. WILLIAMS. Yes, and the intermediate man is taxed in order to give him that price which he is not justly entitled to. It is unjust, it is inequitable, it is wrong. His wheat and his flour, and my wheat and my flour, at an intermediate point go to the same market, and if you charge me more freight than he is charged, I help to pay the railroads their losses, and I help to make up to him in the New York market the price of his wheat or his flour.

Sir, railroads are great things for the country. They are great institutions. They have aided in the development of the country more than any other material cause. I am a friend of the railroads. I look upon them as the great instrumentality in the development of our country. I think the Gospel, the common school, and the railroad have been the three great agencies under Almighty God in the progress and the civilization of the world. The railroads have equalized things everywhere. They have afforded means of transportation and of distribution of the fruits of the earth, so that the humble, the poor, the laborer in every civilized country is enabled to enjoy not only the necessaries but the comforts and many of the luxuries of life by their means. I would do nothing to discourage them, but I would have them do jus-

tice. I would have all roads do the same justice that some I know of do. The railroads have rendered a famine throughout the civilized world an impossibility in modern times by providing ready means for the distribution of the fruits of the earth from one part to another. The people are not disposed to be hostile to the railroads, and should be their friends; and if the railroads were justly and properly managed they would be the most popular institutions in the whole country.

One thing I know. The cause of complaint is not on account of high freights, because everybody knows that from year to year freights are coming down and down all the time, but it is because of the unjust discriminations, such as have been mentioned in this discussion, which have rendered the railroads odious to the people. We all know that where there is no railroad everybody is anxious to have one. Individual men, counties, towns, and States contribute liberally of their means to encourage the building of railroads, but the moment they are constructed they become odious and hateful to the people. Why is it? It is because they are not managed upon the principles of justice and right.

The railroads have rights as well as the people. They are entitled to a fair and just compensation, a fair and reasonable profit upon the capital invested in them, and they ought to have it. Everybody will agree to that. But they should by law be restrained from improper discriminations and unjust extortions upon the country. Every man will agree to that. I do not know how that is to be done. I confess there are so many difficulties and complications about the question that I do not see my way clear to do it. We need more light. We need more special and technical information on this subject before we shall be prepared to legislate and fix the rates of freight and passage-money for the railroads.

I think the law settles the fact that railroads are common highways; that the companies are common carriers, and as such are subject to law, the same as turnpikes and toll-bridges and ferries are; but when you come to fix all these things there comes the difficulty. I do not know how to do it. We can not say what the rates on the railroads ought to be for freight or for passage-money. We can not pass a general law. We can not appoint a commission and give them power to regulate it, because that would be delegating to the commission legislative power, which Congress has no right to confer. We can not do that ourselves.

If the pending amendment does not go far enough it certainly meets some of the grievances of which the country complains. The great grievance is unjust discrimination in favor of particular cities and towns and particular individuals at terminal points and against way-freight stations. That is the trouble in the country. The present system is an admirable one, I admit, to build up great cities and populous and powerful towns at the terminal points, but what is the effect upon the intermediate towns? You see hundreds of little villages all along the line of a railroad, but you do not see a great town anywhere. The effect is to throw into the terminal points from all the country about everything that is to be transported out of a State.

I saw an authentic statement recently of the amount of interstate commerce and the proportion it bore to all the internal trade of this country. It was more than 75 per cent. More than 75 per cent. of all the trade of the American States is interstate commerce, and when you consider that much of the State commerce consists in sending to terminal points their own productions to be shipped into other States, I think it will amount to 95 per cent. Hence you see that interstate commerce is far more important than State commerce. There is very little shipped from one town in my State to another town in the State. Every county raises around about the towns everything that the towns want; and the surplus is shipped elsewhere to be distributed over the broad land and to be sent to foreign markets.

I am unwilling to hamper the railroads. I want them built in my State. We have not half enough. We have immense wealth in my State. We have far more iron, coal, and timber undeveloped than has yet appeared upon the surface, and we must look to railroads to develop them. I would not hamper or cripple them, but I would make them deal justly with the people. I would make all railroads do as some of them do now. Why do the railroads claim these privileges to build up great cities at the termini of the roads and gut the whole country between? It is unjust, it is unfair, it is not right; and with all my friendly disposition toward railroads as the great instrumentality in developing the wealth and resources of our country I am unwilling to give them absolute power over the taxation of the people of this land. We have to-day 125,000 miles of completed railroad, estimated at the value of $7,000,000,000, carrying freight of the people annually to the amount of $1,700,000,000 of their property. This is a tremendous power. The railroads have a revenue to-day larger than that of the Government of the United States. The question is whether we shall take control of them or not.

I confess that the inclinations of my own mind are in favor of a commission. We had a commission in my own State partly through my instrumentality. The roads had all sorts of rates and extortionate charges. A commission was appointed merely with a supervisory power, and the very first year of its existence the roads all came to terms, not by any coercion, but they got together and settled their fares and freights upon such terms of equity and justice that the people were satisfied. They reduced the maximum charges upon all the roads to 3 cents a mile for passenger travel, and some of them carried for much less, and upon coal and other heavy commodities the charge was reduced so as to divide traffic in grain and open coal mines through the State everywhere along the line of the roads. Now why can not that be done? But after the first year the roads got over their scare and nothing else has been done, and the commission is not now worth a cent.

Mr. VAN WYCK. The position seems to me a strange one that the amendment does not go far enough and therefore ought to be opposed. I understood the Senator from Kansas [Mr. INGALLS] to propound an inquiry to the Senator from Oregon [Mr. SLATER], desiring to know whether it was right to charge as much for carrying freight 500 miles as for carrying it 1,000 miles. I should like to ask the Senator from Kansas if he thinks it is right to charge as much for transporting a car from Leavenworth or Kansas City to Topeka or Lawrence as to the city of Denver? Does the Senator from Kansas think it is right to charge as much for transporting a car from Kansas City or Leavenworth to Lawrence or Topeka as to Denver? The Senator may not understand and I will repeat the question. I should like the Senator to answer whether there should be as much charged for transporting a car from Kansas City or Leavenworth to Topeka or Lawrence as to Denver. That is the point embraced in the amendment of the Senator from Oregon.

Some one suggests the Senator is thinking. Then while the Senator from Kansas is thinking upon that question I will propound one to the Senator from Iowa [Mr. ALLISON]. Does he think it is right for a railroad to charge for transporting a car from Chicago to Des Moines as much as for transporting a car from Chicago to Council Bluffs? I will repeat the question. If he thinks it right to charge more for transporting a car from Chicago to Des Moines than for transporting a car from Chicago to Council Bluffs? Does the Senator think that is just?

Mr. ALLISON. Which Senator from Iowa is asked?

Mr. VAN WYCK. The one before me.

Mr. ALLISON. I will answer the question put by the Senator from Nebraska by propounding one to him. I will ask him if he thinks it is right to charge as much for a car from Chicago to Des Moines as to Council Bluffs?

Mr. VAN WYCK. No, sir. Now answer me, please.

Mr. ALLISON. That is what your amendment authorizes to be done.

Mr. VAN WYCK. The Senator seeks to get behind another question to evade an answer to mine. I have answered his question. I say I do not believe it is right. Now, will he answer mine, whether he believes it is right for a railroad company to charge as much for transporting a car-load from Chicago to Des Moines as from Chicago to Council Bluffs? Will you answer?

Mr. ALLISON. That would depend, of course, upon the circumstances. Ordinarily it would not be right.

Mr. VAN WYCK. Under what circumstances would it be justified? Ordinarily it would not be right, he says. Now, what circumstances would justify it? Will the Senator explain?

Mr. ALLISON. I do not want to get into a colloquy with my friend.

Mr. VAN WYCK. No, I should think not.

Mr. ALLISON. The rate from Chicago to Des Moines ought to be a reasonable rate. The rate from Chicago to Council Bluffs ought to be a reasonable one. If they are both reasonable and on the same line and in the same direction the rate from Chicago to Council Bluffs should be greater than that from Chicago to Des Moines. I do not know that it would, but it might occur that at Council Bluffs some time the pool which my friend from Nebraska spoke of this morning, which he says operates so injuriously to Council Bluffs and Omaha, would be broken, and in that case severe competition might arise at Council Bluffs between the railroads, and they would charge between those points less than cost. In that event, to use it as an illustration, I will ask the Senator if he thinks it would be right to charge less than cost also from Chicago to Des Moines?

Mr. VAN WYCK. I should not think it right to charge less than the cost to Des Moines; neither would I think it by any means right to charge less than the cost to Council Bluffs. We are dealing with facts as they are furnished by the experience of years past. There have been the same railroads running across the Senator's State from ten to fifteen years from Chicago to Council Bluffs. There has not been during these fifteen years a single state of facts that has occurred since those roads have been running that would justify the thing that the Senator says would be justified by these peculiar circumstances. It has not happened in fifteen years, nor would it happen in fifty years to come. Is not that a remarkable attitude? The Senator has finally admitted that ordinarily he does not think it right, neither does he think it right that the railroad company should charge as much, and he is right about that. Ought it not really to charge less from Chicago to Des Moines than from Chicago to Council Bluffs? What I desire in propounding these questions is to see upon what ground certain Senators who are finding fault with and antagonizing the amendment put their opposition, with a view of showing really that they want to do nothing. They step forward and oppose the amendment; they say the amendment does not go far enough; and yet there is an extreme unwillingness on the part of Senators to explain just what they do think upon a given state of facts.

My friend from Iowa did finally assent to the proposition that this thing is wrong.

Let there be no misunderstanding about this matter. Here are two admitted evils. The Senator from Iowa admits that there are two evils, one where a railroad charges the same amount for a shorter haul that is charged for a longer haul, and the other where it charges actually more. The attitude of Senators is that the amendment does not go far enough, that while it seeks to strike down one evil it refuses to put its hand upon the other; yet when they are asked for an explanation they are unwilling to admit that either is wrong. When they are desirous to be understood by their people they will seem to be out-Heroding Herod. They say that they want more, and they can not go for this proposition because it does not go the length they desire, when they do not desire to go any length at all.

Here are two acknowledged evils. One is that a railroad charges more for a short haul than a long one, and the other is that it also charges as much for a short haul as for a long one, both of which are wrong. Now, what are we to do? We are here seeking to accomplish something. The Senator says these evils have been existing for years. So they have. No serious attempt has been made by the American Congress to right them, and now we start, and what are we to do? We seek to get the most we can in this measure. If it be the Reagan bill, we will take the Reagan bill. If it be only the little commission bill of the Senator from Illinois, then we will take that. We will take what we can get; but when we stand here asking for this amendment which strikes at an acknowledged evil, an acknowledged wrong, I apprehend the people will not recognize it as a good excuse for voting against the amendment that it does not go far enough and strike at another evil which they also desire to have remedied.

It is not true that forbidding the charge of more for a short than long haul is impliedly legalizing a charge of the same amount for a short as long haul. If Congress says this state of facts shall not be tolerated, it by no means goes the length of saying that the railroads may do other things. One Senator [Mr. INGALLS] says it is giving the whole thing away if we pass this amendment striking at this acknowledged wrong. Oh, no! The judiciary power will be as operative the day after the passage of the amendment as it was before. The law never has taken hold of this wrong. The law never has struck at it. The railroad companies claim that they are right in making these discriminations, and some of their friends upon this floor claim that they are right also. There is no excuse to be found in a refusal to vote for the amendment by saying that there is another state of facts which ought to be included. Let the Senators who believe that insist on amending the amendment. I will follow, and I think the Senator from Oregon will go as far as they will lead in that direction. If these Senators think the amendment does not cover all the cases, we shall be most happy to have them introduce amendments which will cover them.

Mr. INGALLS. Compensation should always be equivalent to service. If it were possible to establish railroad rates for freight transportation and passenger traffic so that the pay should be pro rata in accordance with the distance of the carriage, that would meet my approbation.

There are two evils, both of which are admitted, and one is just as much an evil as the other. I am opposed to both. I believe it is wrong to charge a larger amount for a short haul than for a long haul. I believe it is wrong to charge the same amount for a short haul that is charged for a long haul. I desire if possible to obtain some legislation that will prevent both, so that competition in each case shall be as nearly as possible exactly equal to the service.

The fault that I find with the amendment is not that it goes too far, and not that it does not go far enough, but that in denying the right of the corporations to charge more for a short haul than they do for a long haul, it legalizes the wrong of charging as much for a short haul as for a long haul.

I am unwilling to adopt any legislation that shall legalize an admitted wrong. I am not in charge of this measure; I am not proposing any amendments; it is a subject with which I am not familiar; but so far as these wrongs are concerned I want to right all of them, and I do not propose by my vote to legalize any of them.

Mr. PLATT. I think I must vote against the amendment, and I wish in a few words to state the reasons why I shall do so.

I think a great deal of abuse has been perpetrated by railroads by charging more for a short haul than for a long haul, or by charging more at points along the line to which freight was carried than at the terminus of the railroad beyond those points. But the subject is full of difficulties, and I doubt myself very much whether any rule which may be established by legislation to cover all cases can work justice. It may remedy injustice in some particular cases, but I think it will scarcely work justice in all cases.

My hope is that the commission which the bill provides for, to which such subjects are to be committed and by which all such topics must be passed upon, will result in at least partially remedying the abuses which I know have prevailed. I am, therefore, disposed to take the commission as a tentative measure, hoping that justice will result from that, and waiting a little to see what its effect shall be.

Mr. GEORGE. I do not believe that the amendment offered by the Senator from Oregon is liable justly to the criticism that it legalizes and authorizes an equal charge for a short haul as for a long haul; but some Senators on this floor for whose judgment I have respect seem to think that that is the proper construction of the amendment. In order to obviate an objection which I do not think justly lies, but to remove all doubt upon that subject, I move to add to the amendment of the Senator from Oregon the following:

But this provision shall not be construed to authorize the charging as much for a shorter as for a longer distance in any case where such charge would be unlawful prior to the passage of this act.

Mr. INGALLS. If it is "unlawful prior to the passage of this act" how could it be enforced in any event?

Mr. GEORGE. I do not understand the Senator.

Mr. INGALLS. If it is unlawful now before the passage of the act, how could it be made effective in any event?

Mr. GEORGE. I assume that the objection is that this provision would legalize the charging of as much for a shorter as for a longer haul, and that that could not now be done, because if it could not now be done then the effect charged to the amendment of the Senator from Oregon could not follow. I may not have been fortunate in the language which I have used in my amendment, though I submitted it to several Senators around me. I propose simply to obviate the objection which has been urged, neither more nor less. I will change the amendment verbally so as to meet the objection of the Senator.

The PRESIDING OFFICER. The Senator from Mississippi modifies his amendment to the amendment. It will be read as modified.

The CHIEF CLERK. It is proposed to add to the amendment:

But this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment offered by the Senator from Oregon as amended.

Mr. INGALLS. Let it be read as amended.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. In section 4, line 14, after the word "class," it is proposed to insert:

Or shall charge or receive any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction; but this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended, on which the yeas and nays have been ordered.

Mr. SAULSBURY. Mr. President, I shall vote for the amendment, but I confess that I do not expect it to remedy the evil which it is intended to meet. The provision of the amendment is that the railroad companies shall charge no more for the same quantity for a short haul than a long one. It is intended to provide against that; but it is well known that the companies can alter the number of pounds to be carried from one point to another, and under the amendment the freight would have to be the same quantity and over the same road precisely. However, the amendment is in the right direction.

While I am on my feet I will say that I do not suppose we can enact any law which will entirely remedy the evils that are complained of. There are great complaints in the country about the exorbitant charges made by transportation and railroad companies, but I do not know how we can remedy them. In my opinion the provisions of the bill which propose a commission will utterly fail to correct the evils complained of, and I doubt exceedingly whether anything we can do will take from the companies the power to evade our legislation and carry out their own purposes. A commission, in my opinion, is about the only thing that can correct the evil.

The amendment is in the right direction. It proposes to curtail one of the evils complained of, and that is that for a shorter haul greater charges are made than for a longer haul. That is so evidently unjust that it strikes me the amendment ought to meet the approbation of every Senator.

Objection was made to the amendment by the Senator from Kansas because, as he alleged, it authorizes taking as much for a short haul as for a long one. It will be seen by the construction of the language of the amendment that it does not authorize anything, but only prohibits a certain wrong. The amendment of the Senator from Mississippi [Mr. GEORGE] has obviated that supposed defect in the amendment. I shall vote for the amendment, but in doing so I confess I have very little hope that it will accomplish the object in view.

Mr. CULLOM. I do not care to occupy the attention of the Senate for more than a few moments. I think the discussion which has been had upon this question has proved the proposition that the Congress of the United States is not prepared with that sort of definite information which would justify it in passing a law and making it apply to every possible supposed condition of affairs connected with railroad operations. The purpose I had in view was not to legislate in favor of long hauls as against short hauls, or upon any of the questions that were controverted among the people, about which the public differed, but to leave these questions so that the commission which might be created by

the bill, after thorough and deliberate investigation, would report to us what should be done upon those controverted points.

I do not stand here to insist upon the proposition that a railroad should charge as much for a short haul as for a long one, or more. My judgment is that in nine cases out of ten a railroad or transportation company does wrong when it charges as much for a short haul as for a long one; but I am not prepared to say that we ought to put that sort of provision in the bill, so that under no circumstances that might arise in the operation of a transportation company could the company charge as much for a short haul as for a long haul.

I hold in my hand a volume of Illinois Reports, in which there is a case decided by the supreme court of that State where the Legislature of our State had passed a law declaring that there should not be as great a charge for a short haul as for a long one. The supreme court decided in an able opinion that under the constitution of the State such a law against unjust discrimination and extortion could not stand in the courts of the country. The law was decided to be unconstitutional. The court said that the Legislature under that provision of the constitution might have the power to declare that such an act was *prima facie* evidence of unjust discrimination where they charged as much for a short haul as for a long one, but that the Legislature could not go further in legislating upon the question than simply to declare that it would be *prima facie* evidence in the courts of the country that the corporation was extorting or unjustly discriminating.

I think that it is our duty if we are going to get anything done by Congress on this question to pass a bill that will avoid an explicit declaration upon all these controverted questions, so that we may be able to take the first step and get a commission to investigate these questions about which we are in doubt and about which we differ, and then at a future Congress we shall be better able to meet the questions and determine what sort of law we can pass consistently with the interests of the people of this country.

I do not stand here to advocate the cause of the corporations of the country. The bill was drawn in part by me with the sole purpose of protecting the interests of the people against the transportation companies; but while I was doing that I did not desire to come into Congress with a bill simply to run a raid against the corporations without a reason. On the contrary, I want to do that which is fair between the people and the transportation companies; and if we are going to get a bill passed in this Congress, which I hope we shall be able to do, we must go forward in the consideration of this bill and get something through the Senate of the United States.

While I am on the floor I wish to say that I intend to insist upon the consideration of the bill, and I shall resist an adjournment over to-morrow until Monday unless we progress and conclude the consideration of the bill to-day. I give notice to the Senate now that if the consideration of the bill is not completed to-day and a motion shall be made for an adjournment over until Monday I shall resist it as strongly as I may be able to do and shall call for the yeas and nays upon it, because, while I realize that the consideration of the bill is obstructing other important legislation, I realize at the same time that the consideration of the bill is important to the people of this country, and I do not propose to let go of it until I am voted down by the Senate, before we accomplish something in the direction of legislation in behalf of the people and in the control of the corporations of the country.

I hope that the amendment will be voted down, and that the Senate will proceed with the further consideration of the bill.

Mr. SLATER. If I understand the Senator correctly and understand the decision of the supreme court of his State, it does not properly meet the case here. Although the supreme court of Illinois decided that under the peculiar constitution of that State the Legislature could not provide that no greater price could be charged for a short haul than is charged for a long haul by its railroads, that decision does not meet the case here, because there is in the constitution of the State of Illinois a direct provision that there shall be no discrimination (I do not quote the language but the purport) in the rates charged among railroads, and that the Legislature shall provide against those discriminations. In allowing possible discriminations within certain limits, under the provisions of the Constitution of the United States, we are not limited in the way that the Legislature of the State of Illinois is limited by its constitution. Hence the decision of that court does not apply here in any manner.

Mr. INGALLS. Before voting on the amendment as subsequently amended by the suggestion of the Senator from Mississippi I will venture to call the attention of the Senate to the way in which the section will read in case the Senate should vote affirmatively:

SEC. 4. That if any transportation company engaged in interstate commerce shall, &c.; and if any such transportation company shall neglect or refuse to furnish the same facilities for the carriage, receiving, delivery, storage, and handling of interstate-commerce freights to one person that is at the same time furnished to any other person for the carriage, receiving, delivery, storage, and handling of such freights of the same class, or shall charge, or receive, any greater compensation for transporting a similar amount and kind of property a shorter distance than for a longer distance over the same line of road and in the same direction, but this provision shall not be construed to legalize the charging as much for a shorter as for a longer distance in any case, such transportation company shall be deemed guilty of unjust discrimination.

If any Senator thinks that the Senate can afford to place itself in the attitude that will be occupied by the adoption of such provisions in that connection he ought to vote in the affirmative.

Mr. CULLOM. If there is to be no further debate I shall not make the motion, but I rose to move to lay the amendment on the table.

Mr. BROWN. I beg the Senator from Illinois to withhold the motion.

Mr. CULLOM. I will do so, if the Senator desires to address the Senate upon the pending question.

Mr. BROWN. I desire to make some remarks on this question before the vote is taken, and they will be of some length, perhaps. I prefer to say what I have to say in this connection, because I shall devote a portion of my speech to the subject-matter of the pending amendment.

Mr. CULLOM. I withdraw the motion, as the Senator gives notice that he desires to speak.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. BROWN proceeded to address the Senate. Having spoken for some time,

PROPOSED ADJOURNMENT TO MONDAY.

Mr. HARRIS. If the Senator from Georgia will yield to me for a moment, I move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. BROWN. I yield.

Mr. HARRIS. I make that motion.

Mr. CULLOM. I hope that motion will not prevail. I hope there will be a session to-morrow for the consideration of this bill.

The PRESIDING OFFICER. The Senator from Tennessee moves that when the Senate adjourn to-day it be to Monday next. The question is on that motion.

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

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 31, as follows:

YEAS—26.

Bayard,	Garland,	Jonas,	Ransom,
Beck,	George,	Jones of Florida,	Saulsbury,
Brown,	Gibson,	Kenna,	Vance,
Camden,	Gorman,	Maxey,	Vest,
Cockrell,	Hampton,	Pendleton,	Walker.
Coke,	Harris,	Platt,	
Colquitt,	Jackson,	Pugh,	

NAYS—31.

Aldrich,	Dolph,	McMillan,	Riddleberger,
Allison,	Edmunds,	Mahone,	Sawyer,
Bowen,	Frye,	Manderson,	Sheffield,
Cameron of Pa.,	Harrison,	Miller of Cal.,	Sherman,
Cameron of Wis.,	Hawley,	Mitchell,	Slater,
Conger,	Hoar,	Morgan,	Van Wyck,
Cullom,	Ingalls,	Morrill,	Wilson.
Dawes,	Lapham,	Pike,	

ABSENT—19.

Blair,	Groome,	Logan,	Sabin,
Butler,	Hale,	McPherson,	Sewell,
Call,	Hill,	Miller of N. Y.,	Voorhees,
Fair,	Jones of Nevada,	Palmer,	Williams.
Farley,	Lamar,	Plumb,	

So the motion was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House insisted on its amendments to the bill (S. 729) for the protection of children in the District of Columbia, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. W. L. WILSON of West Virginia, Mr. J. T. SPRIGGS of New York, and Mr. ELZA JEFFORDS of Mississippi managers at the conference on the part of the House.

INTERSTATE COMMERCE.

Mr. BROWN. Mr. President, I desire to submit some remarks on the general subject of railroads, and on the enormous loss which has been sustained by those who put their capital into the roads, while the capital invested in that manner has immensely increased the wealth and power of the whole country.

I shall also have something to say about the effect of unlimited competition between railroad companies which results in consolidation. I shall also discuss briefly the pooling system, and the provision of the bill which proposes to prohibit any railroad company from carrying through freight of the same quantity and quality a longer distance for less money than the same quantity and quality of freight is carried a shorter distance as local freight.

The first railroad that was completed and made an excursion trip upon the face of the earth was the road between Liverpool and Manchester, in England; and that trial trip was made in September, 1830, a little over half a century ago.

Mr. Charles Francis Adams, in his book, says there is some reason for saying that South Carolina was the first State in the world that commenced to put into operation a portion of a railroad to be run successfully by steam or by engine power. He disclaims the honor for the Quincy road of his own State, Massachusetts, which is generally claimed for Quincy, as it seems it was but little more than a tramway.

Probably next to South Carolina come the States of New York and

Maryland, so that South Carolina, England, New York, and Maryland may be said to be the first four states on earth that ran trains of cars propelled or carried by engines with steam power, and that as late as the year 1829, when the first experiments were made, and in 1830 when the first grand trial excursion was run. To warn men of the danger of railroading, an accident occurred during the excursion between Liverpool and Manchester by which a man lost his life. The Duke of Wellington, then premier and very unpopular, attended and gave his sanction on the occasion of the trial trip. What has been the result of these experiments? It is wonderful! Within half a century the whole world has been revolutionized—its cities, its transportation, its commerce. Formerly the cities were built only at the mouths of rivers which penetrated the country. Now they are built where the greatest concentration of railroad power happens to be.

Take our own country. What has been the result? There are now in round numbers about 125,000 miles of railroad in the United States in operation. Counting all that as having cost $25,000 per mile, and counting the equipment and all, it has cost more than that, no doubt largely more, and we have as the result $3,125,000,000 invested in railroads in the United States. That investment has doubled and in many cases trebled the value of real estate and other property, and especially the real estate of the sections traversed by the railroads, while a very large proportion of this enormous sum has been lost by those who invested it in railroads for the benefit of the public. Take my own State as an illustration. I have been informed that since the year 1830, since the first railroad train ran on earth, a lot of two hundred and two and one-half acres of land in the very center of Atlanta sold for a horse, bridle, and saddle. Railroads have made Atlanta what she is. There are probably more than $15,000,000 worth of property now upon that lot of land besides the large improvements on adjoining lots. Had it not been for the railroads there would probably have been none of that property there, and that lot of two hundred and two and one-half acres would still have sold for a few hundred dollars. This is no isolated case. There are numerous cases like it all over the country. Railroads, then, I say, have revolutionized the country, built cities, great commercial centers, where formerly none existed, nor could exist under the old system, vastly added to the value of real estate and property of every character, and given new life and new energy to everything, not only upon this continent, but upon all the continents of the world, for they now have railroads in Europe, Asia, and Africa as well as in America.

That is not all. The invention of the telegraph seems to have been either directed by Providence or to have happened just when it was needed in connection with the railroads. And while the trains now sweep over the face of the earth with a velocity of from twenty to fifty miles an hour, men converse with each other from one side of the continent to the other, and flash their thoughts across the ocean instantaneously. A wonderful age this we live in. The system that has produced this great result is worthy of human consideration. It is worthy of the consideration of the ablest statesman, as well as the profoundest political economist. It is a gigantic system, however, and while it has made this country what it never could have been without it, I do not think it should be left entirely unbridled, without regulation, which should be done wisely and constitutionally if done at all. But I do say that those who seek to control it should not do gross injustice to a system that does so much for our whole people.

A few years ago they burned corn in the West for fuel. Why? The lands were exceedingly fertile, and the people made vast quantities of corn. They had no means of transportation. They could use only what they fed to their stock and their families, and the rest was left in that prairie country as the cheapest fuel they had. Before railroads penetrated the great West 10 cents a bushel was high for corn; many times it would not command that. In that day your exchanges were conducted mainly upon our cotton crop. What has happened since the days of railroads? These long steel-rail lines that so much has been said against have penetrated the great West, and by thousands of miles go upon the plains and prairies; and by combining and placing long lines under one management have been able to carry productions rapidly to the Eastern cities, and then, by the aid of steamships, speedily to land them on the other side of the ocean, to fill any vacuum there, so as to make the teeming productions of the West a great auxiliary to those of the South in conducting commerce and the exchanges of the Government and people of this country.

Look at the statistics, and you will see that the meat and the flour and other productions of the West figure very largely now in the account.

We have had commercial depression and periods of inflation, and we shall continue to have them. Whether at as regular intervals as in the past I can not say, but we shall have them. How has it been, however, for the last few years? The balance of trade has run in our favor as high as $260,000,000 in round numbers in one year. In other words, in trading with foreign powers we have shipped to them of our productions and manufactures $260,000,000 in a year more than we have received of their productions in return, and they have had to pay us that large balance in gold and silver. This poured in the lap of our country an immense amount of the precious metals, creating what is called "the great business boom." Would it have been but for these railroad facilities? Clearly not. Why, we have even pressed England to the point where some of her people held meetings and demanded a protective tariff to keep the productions of the United States at such low prices out of their markets, as the English farmer can not compete with us raising grain on the free-trade basis.

Well, now, I say any great interest or development that men have put their money into that has produced such a result as this is entitled to the consideration and protection of statesmen everywhere. I know how easy it is to excite popular prejudice against corporations and monopolies, as they are called. It is an easy task to excite the people, as it would be easy to influence many of them by the doctrines of agrarianism, and make them believe it would be better every ten years to divide out the property equally among everybody. Many of them would shout and throw up their caps at such a doctrine; and it is easy enough to have followers when you say, "Let other people build railroads and let us take charge of them and run them for our own benefit without having cost us anything." But is it just? I address cool-headed, sensible men, grave Senators, who were sent here to represent the people. I ask for no privileges for the railroads that are unreasonable, but I do ask that you do something like justice by them, and deal with them upon principles of fair play.

So much for the history of railroads and the results that have been produced by them. But this new state of things, this great revolutionizing element that has come into existence, that has revolutionized commerce and changed the basis of your exchanges and the balance of trade, has brought about a grave problem for the economist and the statesman. How are these great interests to be managed so as to do justice to the people and at the same time do no injustice to those who have invested their means in constructing them, thereby building up society and commerce? That is a problem that every civilized nation has had more or less to do with. It has been found a very difficult one to deal with. It is claimed that the great law of trade is "encourage competition—the more competition the better for the people." And yet the experience of the world has already shown most conclusively that that system applied to railroads ends inevitably in consolidation, and does the greatest injustice while it is working out that result. The competitive system has been virtually abandoned in England. It was never tolerated to any great extent in France. In Belgium the government owns interest enough in the railroads to keep, as Mr. Adams says, the thumb upon the regulator all the time and regulate the competition. In Germany the government is taking hold of it, so as to control the competition.

It is worth while to inquire into the system England has adopted. There was the first successful railroad on earth, and there are statesmen there competent to deal with the problem. Indeed, I may justly say that the statesmanship of England towers like a vast pyramid upon the plain of time. This question has there been agitated more, I think, than anywhere else; it has received a fuller investigation, and they have finally reached a solution. And that solution is that in railroading consolidation is the rule, and not competition. They tried various experiments, but have finally settled down upon a railroad commission, whose powers are mainly judicial, and in most cases their decision is final and conclusive. This commission is one of the high courts of the realm, possessing great ability and great dignity; and it is said that they have to a great extent so regulated matters by the commission taking judicial cognizance that there is now but little trouble in working the railroad system in England.

But it is said there are abuses in the railroad system which can not be justified. That is doubtless so; abuses will creep into every great system where great interests are at stake, and it is the duty of wise legislators as far as it lies in their power to correct such abuses.

It is said the railroads have oppressed the people. There may be instances of this character, but the people in turn have often oppressed the railroads. The whole tenor of our legislation looks to establishing rules in reference to railroads that are more onerous to them than the rules applied to people generally. Legislation often discriminates against them; courts and juries do them injustice. A jury of citizens acting under the solemnity of an oath frequently gives five or ten times as much damage to a citizen against a railroad company as they would give in a case between citizen and citizen where the injury was the same.

The people are always ready to encourage bankers, merchants, or anybody else who has capital to put into railroads. Let a new railroad enterprise be started, and public meetings are held and patriotic speeches are made, the men applaud and the ladies throw up their handkerchiefs when heavy subscriptions are made, and every possible inducement is held out to the company to put its money in and build the road; but no sooner is it completed and in condition to conduct the business of transportation than the whole tone of popular sentiment is changed, and those who put not a dollar into its construction are often foremost in the crusade for its confiscation—not by an act of the Legislature, not by a decree of a court, but by putting down freights and passenger fares to a point where the capital invested can never be remunerative, and with a view to giving the people who invested nothing in the road the almost free use of the road and its rolling-stock for their accommodation. Railroad commissions or any one having con-

trol over the railroads are expected to favor constant reduction in rates and in fares, until the company is driven to bankruptcy and the road sold to pay its indebtedness. And in this manner the money put into the road by the original stockholders is entirely lost, their property having been virtually confiscated by the popular clamor for low rates, which drove them into bankruptcy and resulted in their ruin.

Take my own State as an illustration. There are two great rival corporations whose interests are now consolidated—the Georgia Railroad and Banking Company and the Central Railroad and Banking Company. They have not gone into bankruptcy, and during a very considerable proportion of the time since they have been built they have paid reasonable dividends to the stockholders; but not so with most other companies. Go to the northern part of the State, and there is the road formerly known as the Alabama and Chattanooga. A large amount of its stock was paid in by citizens of Georgia, and every dollar of it was lost, and the company went into bankruptcy and the road has been sold a time or two since.

Next is the Selma, Rome and Dalton, running from Dalton into Alabama. The part of this road that lies in Georgia was sold under a decree of the superior court of Floyd County and purchased by a company, and the stockholders lost every dollar. I believe the part in Alabama shared about the same fate. The road did not even pay all the bonds which had been issued.

Next comes the Cherokee road. That, too, has gone into bankruptcy and has been sold and the stock lost to the original holders. Then take the Air Line, from Atlanta through the Carolinas, which cost some $13,000,000, which sold under the marshal's hammer for about one-third of the amount, and the original stock and a large percentage on the bonds were entirely lost.

Then comes the road from Griffin to Carrollton, which has shared the same fate. The road from Macon to Augusta has also gone through the insolvent court and been sold for the benefit of the bondholders. Go to Columbus, and there you will find that the North and South road shared the same fate, and the stockholders lost all they had put into it. Then take the Macon and Brunswick; that, too, has been sold, and all the stock put into it by citizens lost. And the road from Brunswick to Albany has been treated in like manner.

Again we have the great line from Savannah into Florida and Alabama, known as the Savannah, Florida and Western. This, too, passed through the court of bankruptcy, and the original stockholders lost their capital.

Of the sixty-odd millions of dollars invested in railroads in my own State much the larger half of the capital has been absolutely lost to the stockholders, and in many cases the bondholders received only a percentage upon the amount invested, and much of this has been the result of the popular clamor for reduced rates.

I know some patriotic citizens and officials who do not practically understand this question are of opinion that all railroad companies should be put under about the same iron rule as to freights and passage; each should only be permitted to charge the same that another charges.

Now, it is very obvious that this rule is grossly unjust and oppressive to weaker companies, where they have but little business as compared with the stronger companies that have large business. Let me illustrate what I mean. The great line controlled by the Pennsylvania Railroad Company between the two great cities of New York and Philadelphia runs trains at very short intervals between these great cities well loaded with freights or passengers. They can afford to carry at a very low rate, on account of the vast quantity of freight and the vast number of passengers, and still make money. Take a place in the rural districts where there are not freight and passengers enough to load one train each way per day, and if they are compelled to carry at the same rate that the Pennsylvania road carries they can not pay fixed expenses. They can not keep the road in repair or in safe running order; and still the citizens who are served by the road through the rural districts expect their freights and passage as low as railroads in any section of the Union can carry like freight and passengers.

Whenever a road is run through a section that has little business to do, the people of that section must expect to pay a higher freight than those who live along the line of a road where there is much to do and where there are long through connections which serve as feeders. Let me again illustrate:

There is a vast quantity of valuable pine timber in my State between Savannah and Montgomery County that is worth large fortunes if there was any way to get it to market. The people there are too poor to build railroads. Suppose a company of capitalists were to say, "We propose to build you a railroad from Savannah into Montgomery County, say a hundred miles, and give you an outlet for your timber;" what would be the increase in the value of lands and property in that section? Would not the property be worth four times as much as it now is? The tract covered by the pine timber would be worth a large sum that is now not worth a dollar an acre in the market. In such cases it would be simply absurd for the people of that section to say you must charge as low a rate as the Central charges, which does a heavy business.

Rather than do without a railroad the people of Montgomery County could well afford to pay three times as much as the freights on the Central, which does a heavy business. No company of capitalists, with the present lights before them, and with the railroad commission over them, would think of building such a road without some guarantee that the freights would be kept constantly up to a point where the capital invested might pay dividends. What man of sense will put his money into a railroad between Savannah and Montgomery County for the accommodation of the people there without some such guarantee? But if the capitalists could be induced to make such an investment there would be a clamor all along the line for lower rates, rates as low as the Central.

Of course such a reduction in rates would soon drive the company into bankruptcy, but after the railroad is built what do the people care for that? True, the stockholders would lose their capital, but the people along the line would have the benefit of a railroad for the development of their section, which would cost them nothing and would enable them to make fortunes by the increased value of their lands and the sale of their timber.

This character of legislation, if persisted in, will soon stop the building of railroads.

In the North and West you may have enough of railroads; the people may have game enough in the trap that they can afford to pull the trigger and be content to rob those that now have capital invested. This is not our condition in the South. We have great need of other railroads, and until we get more capitalists to put their money in the construction of our railroads I think we had better wait and let more game go in the trap before we pull it down upon them.

The constant cry is that the railroads are oppressing the people—that they are great monopolies, growing rich by their oppression. The fact is that a very large proportion of them have gone and are going into bankruptcy, and those who are weak enough to put their capital in them are losing the amount invested on account of the clamor of the populace for the control and use of the railroads without anything like just compensation to the owners.

But great stress is put by the advocates of stronger measures of reform upon the fact that railroad companies often carry through freights longer distances for less money than they carry local freights for shorter distances. That practice is vehemently condemned by the advocates of virtual confiscation of railroad property. If we should pass the interstate-commerce bill and should prevent that practice the people, when they saw the workings of it, would very soon be clamorous for the repeal of the obnoxious law. You must permit through freights to be carried longer distances for less money than local freights are carried shorter distances, or you exclude through freights from your lines of road entirely, and then the railroad companies must fall back upon their home productions, and make their money, if they make any, out of local freights. The same rate of freight per mile will not do.

Let me again illustrate. Suppose a farmer brings ten tons of corn to the railroad depot at Marietta, twenty miles from Atlanta, which he desires transported to Atlanta. The railroad company takes charge of it, receives the corn into the depot, the employés take the trucks, roll it to the car, and load it in at Marietta; then the company hauls it to Atlanta, takes the trucks, runs it out, unloads it, and delivers it to the consignees. What would be a reasonable charge for the transportation? Would any reasonable man object to $5 for carrying the ten tons of corn twenty miles and $2 for loading and unloading? I presume not. It would be less than a cent and a half a bushel. It would be 2½ cents per ton per mile. None can question that the freight for so short a distance is reasonable.

Now, suppose another farmer brings ten tons of corn and delivers it at the depot of the same road at Dalton, one hundred miles from Atlanta. It must be carried at the same rate per mile from Dalton to Atlanta at which it was carried from Marietta to Atlanta, which is 2½ cents per ton per mile. This would make a car-load of ten tons cost the shipper $25 between Dalton and Atlanta.

Now, suppose another farmer in Kansas City, Mo., delivers ten tons of corn to the railroad to be shipped to Atlanta. The same rate per ton per mile must be charged for the longer distance which is charged for the shorter distance. What would be the freight between Kansas City and Atlanta, which is in round numbers a thousand miles? It would be $250 on a car-load of ten tons or three hundred and fifty bushels. This would be a fraction over 71 cents per bushel freight from Kansas City, Mo., to Atlanta. What say the Western planters to this rule as applied to the transportation of their produce to market, and what say the cotton-planters of Georgia to the application of the rule as applied to the productions of the West which they purchase for home consumption? No one will complain that the rate charged between Marietta and Atlanta in the case supposed is unreasonable, and yet if we apply the same rule to freights for longer distances it soon reaches a point where it amounts to a prohibition to carry it at all. In the case supposed the freight on a bushel of corn between Kansas City, Mo., and Atlanta, Ga., would be more than the corn would bring in either market. The rule which produces this sort of inconvenience, this sort of absurdity and injustice, can not be a wholesome or wise rule.

But other patriotic persons engaged in the regulation of interstate commerce will disavow this rule, and will declare that it is not their purpose to require the same rate of freight per mile on local and through

shipments, but that they only intend to prevent the carrying of the same quantity and quality of through freight a longer distance for less money than is charged on the same line for a like quantity and quality of local freights for a shorter distance. On first presentation the reasonableness and equity of this rule seem to be apparent, but when we apply to it the test of practical experience it will not bear examination, and its absurdity becomes obvious.

As already stated, a large majority of the railroad companies who have built the railroads in this country have gone into bankruptcy, and the railroads when sold have been purcharsed at prices greatly below the cost of construction by companies which have consolidated them into a few long trunk lines, which now run in competition with each other, and which have become necessary in conducting the business of transportation. And many of them purchased at prices far below cost do not pay dividends on the purchase-price.

As long as competition can be maintained without ending in consolidation, which point I will discuss further on, competition seems to be conducive to public prosperity, but if you apply the rule that railroads shall in no case carry freights of like quantity and quality a longer distance for less money than they carry similar freights a shorter distance, you will soon check and destroy a great deal of the competition which now exists.

The position amounts to this: that a car-load of corn when conveyed as through freight shall not be carried twenty-five miles for less money than a like car-load of corn conveyed as local freight is required to pay for twenty miles. Now, if you will fix a reasonable rate of local freight for twenty miles, such as will enable any railroad company to pay even the fixed expense of keeping its road in repair and running it, and you will then fix a through rate for the same car-load for twenty-five miles at the same rate charged for twenty miles of local transportation and extend that rate of 1,000 miles, you will find in every instance that the rate of freight will amount to a prohibition and you can not transport the goods and pay the rate. To maintain the rule you must either fix the local rate below the point absolutely necessary to pay the running expenses or you must fix the through rate so high it will prohibit the transportation of the commodity.

Take the case already supposed of a car-load of corn shipped from Marietta to Atlanta, charging a local rate of $5 per car-load for twenty miles. Then suppose a through shipment over the same road at a rate that would carry the car-load of corn twenty-five miles for $4. This would be a violation of the proposed legislation, as it would be a case where a like commodity is shipped a longer distance for less money. Or if you discriminate even more than this between local and through freight, carrying the through freight a still greater distance for less money than you carry the local, unless you extend it very materially it will amount to a prohibition and you can not ship through freight at all.

In the case supposed we carry a car-load of local freight for twenty miles for $5 and a car-load of through freight twenty-five miles for $4. For a hundred miles this would be $16, and from Kansas City, Mo., to Atlanta, a thousand miles, it would be $160 for transporting a car-load of three hundred and fifty bushels of corn. This would be about 45 cents a bushel on the corn for freight. What say the farmers of Missouri and Kansas? Would their corn bear this freight? Clearly not. A great deal of corn is now shipped from Kansas City into Georgia. Such a law would at once prohibit further shipments of corn for so long a distance.

But to meet the objection of the hypercritical as to rates, let us suppose the case that the local rate on a car-load of corn from Marietta to Atlanta, twenty miles, is only two dollars and a half—and no railroad can keep long out of the insolvent court which carries its local freights as low as that; then suppose the rate on a car-load of through freight between Kansas City and Atlanta should be $2 for every twenty-five miles. This again would violate the law if the proposed legislation should be enacted. The car-load of corn carried as local freight from Marietta to Atlanta being charged two dollars and a half for twenty miles, and the car-load of through freight being charged only $2 for twenty-five miles, we would be carrying the same commodity a longer distance for less money, but even the low rate of two dollars and a half per car-load for twenty miles of local freight would, when we apply the rule to through freight, be prohibitory. If we charge $2 for twenty-five miles on a car of through freight this would be $8 per hundred miles and $80 for a thousand miles. This would be a fraction over 22 cents a bushel freight on corn from Kansas City, Mo., to Atlanta.

Now, if we may credit the newspapers, I believe a bushel of corn is worth but little more than that in Kansas City at the present time. Even at this ruinously low rate of local freight (which no railroad company can afford to charge and continue to do business) the rule applied to through freight makes it prohibitory before it reaches a thousand miles distance. It would probably be prohibitory in the case supposed at five hundred miles distance.

If you enact such a law as this you will derange the whole transportation of the country, and you will either drive the railroads generally into bankruptcy on account of the low rate you permit them to charge for their local freights, upon which they rely mainly for their support, or you will prohibit the interchange of commodities at a greater distance than five or six hundred miles. As the figures plainly show it could not possibly stand the rate for a thousand miles.

Under such a rate of freight how would the farmers of the teeming West ever reach European markets with their productions? It would be simply an impossibility.

Such a law would destroy not only the interstate commerce of the country, but utterly ruin our foreign commerce, by prohibiting the exportation of our productions to foreign markets. I take it that wise men will not be guilty of enacting into a law a proposition so manifestly absurd.

Some of the Southern lines of railroad and steamships are trying to build up competition with the Northern roads for the Western business.

For a long time the Northern roads have had a monopoly of that business. They run four trunk lines, as you are aware, from the Eastern cities into the great West—the Baltimore and Ohio, the Pennsylvania, the Erie, and the New York Central. These are the four great trunk lines that penetrate the West in every direction, going to Chicago, Saint Louis, and other central points in that section, and they do the business between the East and the West.

They frequently, while at war with each other, carry freights for almost nominal prices from the West through to New York and thence by steamer to Charleston and Savannah. Then they load their steamers with cotton and other productions back to New York, and load their cars in New York with Western-bound freights. Now that freight landed in Savannah by the steamers from New York can be taken and carried to Louisville, Ky., at a very low rate, and the railroads still make money on it.

This shows the feasibility of opening another great trunk line between New York and the other Eastern cities and the great West. In prorating freights railroad men count one mile of rail equal to three miles of water. Why so? The company has to secure the right of way, grade the road, lay down the track and prepare it for the cars, which is a heavy expense for each mile.

God has prepared the ocean, and it is ready to receive the burden of transportation without the construction of a track, and all man has to do is to put on the rolling-stock. In other words, build the ship, and the road is already prepared for use.

It is very evident, therefore, that freight can be transported three miles by water as cheaply as it can be carried one mile by rail. Now we have a splendid line of steamers running between New York and Savannah, which make their trips with great regularity and carry passengers and cargoes of freight. Then we have a line of railroad from Savannah through to Louisville, Ky., connecting at different points with other roads penetrating the West and reaching Saint Louis, Chicago, and Kansas City, and other commercial centers. Now apply the prorating rule to the portion of the distance which includes conveyance by water, and counting three miles of water for one of rail, and the line from New York to Louisville is shorter by way of Savannah than any one of the four great Western trunk lines from New York to Louisville. The same is true as to Memphis, Saint Louis, Kansas City, and in fact to all cities of any importance west of Cincinnati and Chicago.

There is an immense section of the West which should have the benefit of a competing line between that section and the Eastern cities which is the shortest of the five competitors. Then it has this additional advantage so far as the transportation of freight from the East to the West is concerned: Of the immense number of trains which run from the West into Georgia and the South Atlantic States to supply the cotton planters with Western productions, seven out of every ten of the cars go back empty when they return to the West for another load. Now, a cargo of goods in New York intended for Saint Louis has the advantage of the shortest line by Savannah; it has the advantage of transportation by ocean from New York to Savannah, and of transportation from Savannah to Saint Louis in cars that would otherwise go back empty.

There are four links, composed of different companies, in the line of rail between Savannah and Saint Louis. Now, suppose each of these receives but $5 on a car-load of goods going from New York to Saint Louis; it makes money on the shipment, because the car would go empty if it were not permitted to carry the goods.

It is nearly three hundred miles from Savannah to Atlanta Suppose the Central road receives but $5 for the car-load for that distance. As the car was going back empty, it is $5 made. But if you lay down the rule that the Central shall charge $5 a car only for carrying the local freights three hundred miles, it ceases to be able to pay fixed expenses and goes into bankruptcy in a single year.

Therefore you can not reduce the rate of local freight on the Central to $5 a car; but if the Central undertakes to carry a car-load of goods in transit between New York and Saint Louis from Savannah to Atlanta for $5 when the car would otherwise go empty, you prohibit it by establishing the rule that no company shall carry on its own road the same freight for a longer distance for less money than like freight is carried for a shorter distance, and the Central is excluded from carrying this freight at all. The people of the West are deprived of the competition while it lasts of a fifth great line between them and the Eastern cities, and deprived of a cheaper rate of freight which they could secure by the shipment over the line referred to.

Now, what good, let me ask, does it do any one, except the great trunk lines, to prohibit the opening and operating of a fifth great line between the East and the West?

And what good does it do any one but the trunk lines to drive this freight around upon the trunk lines by establishing the rule that you can not carry the like freight a longer distance for less money? In this case you must carry this great through business a longer distance for less money than you carry local freights a shorter distance, or you must prohibit the use of the line for the purpose of carrying through freights.

Mr. MORGAN. If the Senator from Georgia will yield to me, as I see he has still considerable material before him, I move that the Senate do now adjourn.

The PRESIDING OFFICER. Does the Senator from Georgia yield to that motion?

Mr. BROWN. Yes, sir.

Mr. CULLOM. Will the Senator allow me before the motion is put to make a statement?

Mr. MORGAN. Certainly.

Mr. CULLOM. I propose when this interstate-commerce bill comes up for consideration to-morrow to ask the Senate to remain here until the discussion and consideration of it shall be concluded. I give that notice now, so that Senators may understand that it is my purpose to press the bill to a conclusion to-morrow, if possible.

Mr. BECK. Will the Senator from Illinois state what he means by the conclusion of the bill?

Mr. CULLOM. Yes, sir. My purpose is and has been all the time, as I have stated once or twice before, to have the bill under consideration considered and amended as the Senate sees proper to amend it, and when we get through with amendments I propose to ask the Senate to take up the House bill, and then I shall offer the bill that is now under consideration as an amendment to that bill, proposing to strike out all after the enacting clause and insert this as a substitute.

Mr. BECK. All that is proposed now therefore is to finish the amendments of this bill. Is that all?

Mr. CULLOM. No, sir; I want to finish the whole subject.

Mr. BECK. Oh, Mr. President, I shall object to that, and for this reason, if I may be allowed——

The PRESIDING OFFICER. The Senator from Illinois has merely given a notice.

Mr. CULLOM. Of course it will be in the power of the Senate to take its own course.

Mr. BECK. Allow me to make a statement. I have regarded the discussion of this bill, the Senate bill which has been under discussion for two or three weeks, after the avowal made that there was no expectation of sending it to the House to be passed there, as simply a waste of time. If we are to pass any bill at all it must be the House bill amended as the Senate shall see fit to amend it. There will be, there can be, no serious, earnest discussion of any practical measure on this subject until the House bill is taken up. When the House bill is once taken up and proper amendments suggested then there will be some discussion looking to the accomplishment of something; to tell us that we are to close all that to-morrow is not reasonable. By taking up the House bill there will be some chance of securing concurrent action on a measure that may become a law; but for us to go on talking upon a bill that nobody supposes means anything, and then to close the whole subject up to-morrow, seems to me to be a proposition that can hardly be seriously thought of. I hope this bill will be finished and finished now.

Mr. HOAR. Mr. President, I should like to inquire of the Senator from Kentucky whether, in his judgment, it is not the best way, as we have gone so far with this bill, which has been the basis of discussion and amendment and is the draught of the Senate committee to whom the subject was referred, to perfect this bill, which will be then the opinion of the Senate, and when we have done that to take up the House bill and make this perfected bill a substitute for it? That will put it in the position of an amendment to the House bill, and a committee of conference will have jurisdiction.

Mr. BECK. When the proposition was made to send the House bill and this bill to the Committee on Railroads, and that committee refused to take it, I regarded that as a confession on the part of that committee that they had nothing to offer us or to enlighten the Senate about. I may be mistaken as to what was the meaning of their objection, but that was the way I construed it, and I was waiting for the House bill to come up so that we could look at something that meant something.

Mr. CULLOM. If the Senator will allow me, I think that the bill which is now under consideration means something, so far as that is concerned; but, as I have said over and over again, the Committee on Railroads reported the bill which is now under consideration as their deliberate judgment of what ought to be done upon this question, and it has been before the Senate for its consideration. I have been anxious to have the Senate discuss it and amend it in the line of the theory of the bill under consideration as it thought it best to do, and I have said all the time, and say now, that when that is concluded I shall make the motion to take up the House bill, and then move to strike out all after the enacting clause of that bill and insert the bill which is now before the Senate under consideration as perfected by the Senate.

I have felt and believe that in that way we would accomplish the work that the Senate desires to do in the passage of a bill quicker than by referring the subject back to the committee and then having the committee report the whole thing again, because inevitably the discussion will come up upon the two lines of thought and the two policies, whether it comes from the committee by being referred to it again or whether it remains here in the Senate. My idea has been that if we could perfect the bill now before the Senate, then the substitution of it for the House bill would enable those who were in favor of the House bill to give their views upon it, if they wanted to do so, and then to vote upon the question of which measure or line of legislation they were in favor of, and that we should get the two Houses together eventually, as the Senator from Massachusetts says, either by a concurrence on the part of the House in the bill as perfected by the Senate or by a conference committee that the two Houses could finally agree upon. The only object I have had is to accomplish some legislation upon the question as quickly as possible.

Mr. MORGAN. I renew my motion to adjourn.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 16, 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.

ENTRY AND WITHDRAWAL OF DISTILLED SPIRITS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, submitting draught and recommending the passage of a bill to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses and the withdrawal of the same therefrom; which was referred to the Committee on Ways and Means, and ordered to be printed.

PURCHASE OF PAINTINGS BY THE GOVERNMENT.

The SPEAKER, by unanimous consent, also laid before the House a protest of the board of directors of the Pennsylvania Academy of Fine Arts against the purchase of a portrait of General George H. Thomas by Miss Ransom and a picture of the Electoral Commission by Mrs. Fassett; which was referred to the Committee on the Library.

ARRANGEMENT OF THE HALL OF THE HOUSE.

Mr. HARDY. I rise to make a privileged report from the Select Committee on Ventilation and Acoustics. I ask that it be read.

The Clerk read as follows:

The Committee on Ventilation and Acoustics, having had under consideration the subject of improving the acoustics of the Hall of the House of Representatives, have come to the conclusion that the proper transaction of the business of the House will be greatly facilitated by the removal of such parts of the railing and screen in the rear of the members' desks as are not required for the comfort and convenience of the members, and accordingly recommend the adoption of the following resolution:

Resolved, That the Architect of the Capitol be authorized and directed to remove such parts of the railing and screen in the rear of the members' desks as may not be required for the comfort and convenience of the members, under the direction of the Committee on Ventilation and Acoustics.

The resolution was adopted.

Mr. HARDY 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.

BRIDGE OVER MISSISSIPPI AT MEMPHIS.

Mr. YOUNG. I ask unanimous consent to have taken from the House Calendar and put on its passage now the bill (H. R. 2799) to authorize the construction of a bridge across the Mississippi River at Memphis, Tenn.

The SPEAKER. The bill will be read, subject to the right of objection.

The Clerk read as follows:

Be it enacted, &c., That the Tennessee and Arkansas Bridge Company, a corporation organized and created under and by virtue of the laws of the State of Arkansas, and the Tennessee Construction and Contracting Company, a corporation organized and created under and by virtue of the laws of Tennessee, be, and the same are hereby, jointly authorized and empowered to erect, construct, and maintain a bridge over the Mississippi River from or near Memphis, in the State of Tennessee, to or near the town of Hopefield, in the State of Arkansas. Said bridge shall be constructed to provide for the passage of railway trains, and, at the option of the corporations by which it may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, and for foot passengers, for such reasonable rates of toll as may be approved from time to time by the Secretary of War.

SEC. 2. That any bridge built under this act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States, or for passengers or freight passing over said bridge, than the rate per mile paid for the transportation over the railroad or public highways leading to the said bridge; and it shall enjoy the rights and privileges of other post-roads in the United States.

SEC. 3. That said bridge shall be made with unbroken and continuous spans; two spans thereof shall not be less than five hundred and fifty feet in length in

the clear, and no span shall be less than three hundred feet in the clear. The lowest part of the superstructure of said bridge shall be at least sixty-five feet above extreme high-water mark, as understood at the point of location, and the bridge shall be at right angles to and its piers parallel with the current of the river. No bridge shall be erected or maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of said river; and if any bridge erected under such authority shall, in the opinion of the Secretary of War, obstruct such navigation, he is hereby authorized to cause such change or alteration of said bridge to be made as will effectually obviate such obstruction; and all such alterations shall be made and all such obstructions be removed at the expense of the owner or owners of said bridge. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, caused or alleged to be caused by said bridge, the case may be brought in the district court of the United States in which any portion of said obstruction or bridge may be located: *Provided further*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of the navigation of rivers, or to exempt this bridge from the operation of the same.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same, and over the approaches thereto, upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any one of them, desiring such use shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties: *Provided*, That the provisions of section 2 in regard to charges for passengers and freight across said bridge shall not govern the Secretary of War in determining any question arising as to the sum or sums to be paid to the owners of said bridge by said railroad companies for the use of said bridge.

SEC. 5. That any bridge authorized to be constructed under this act shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe; and to secure that object the said companies or corporations shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge, and a map of the location, giving, for the space of two miles above and two miles below the proposed location, the topography of the banks of the river, the shore-lines at extreme high and low water, the direction and strength of the currents at all stages, and the soundings, accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location of the bridge are approved by the Secretary of War the bridge shall not be built; and should any change be made in the plan of said bridge during the progress of construction, such change shall be subject to the approval of the Secretary of War.

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in said structure, or its entire removal, at the expense of the owners thereof, whenever Congress shall decide the public interests require it, is also expressly reserved.

SEC. 7. That it shall be the duty of the Secretary of War, on satisfactory proof that a necessity exists therefor, to require the companies or persons owning said bridge to cause such aids to the passage of said bridge to be constructed, placed, and maintained, at their own cost and expense, in the form of booms, dikes, piers, or other suitable and proper structures for the guiding of rafts, steamboats, and other water craft safely through the passage-way, as shall be specified in his order in that behalf; and on failure of the company or persons aforesaid to make and establish such additional structures within a reasonable time, the said Secretary shall proceed to cause the same to be built or made at the expense of the United States, and shall refer the matter without delay to the Attorney-General of the United States, whose duty it shall be to institute, in the name of the United States, proceedings in any district court of the United States in which such bridge, or any part thereof, is located, for the recovery of the cost thereof; and all moneys accruing from such proceedings shall be covered into the Treasury of the United States.

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

Mr. WELLER. I hope the gentleman from Tennessee [Mr. YOUNG] will, subject to the right to object, make a brief explanation in regard to having the free navigation of the Mississippi at the point where this bridge is contemplated protected by proper sheer-booms, dikes, &c.

Mr. YOUNG. Mr. Speaker——

Mr. HOLMAN. Is it understood that the right to object is reserved?

The SPEAKER. That right is reserved.

Mr. YOUNG. In drafting this bill, Mr. Speaker, I undertook to guard against every possible danger to the free navigation of the river, and I endeavored also to avoid every objection that could be suggested to its passage by any one. If there is anything in it that ought not to be there I am willing that it should be stricken out, or if there is anything omitted that ought to be in it I am willing it should be so amended.

It is an important measure, one I have been trying to get considered by the House for several years, but have never been able to reach on the Calendar. There are seven railroads now centering in Memphis, and all the trains have to connect from east to west and *vice versa* by crossing the Mississippi River. Three transfer boats are now used to cross these trains, and not unfrequently there is great delay in transporting freight and passengers from one side of the river to the other. I know of no crossing of the Mississippi River where a bridge is more urgently demanded in the interest of commerce and travel than at the city of Memphis. If there is any objection to it I am willing to have it amended so as to conform to the views of any gentleman who thinks any part is objectionable.

Mr. HOLMAN. I wish to ask the gentleman a question.

Mr. YOUNG. Certainly.

Mr. HOLMAN. It was impossible to hear the reading of the bill on account of the confusion in the House. Inasmuch as up to this time no bridge has been allowed on the Mississippi River below Cairo, of course the importance of this measure is apparent. Now, I wish to ask the gentleman from Tennessee whether this bill has been reported from the Committee on Commerce.

Mr. YOUNG. It has been reported from the Committee on Commerce, and I have the report of that committee now in my hand.

Mr. HOLMAN. What is to be the number of the spans, and what is to be the length of the span?

Mr. YOUNG. I do not remember now, but the bill was drafted after consultation with the best-informed men and two or three officers of the Government, and I think it is free from any reasonable objection.

Mr. HOLMAN. It provides for the same length of the main spans.

Mr. YOUNG. It does. I consulted one of the supervising inspectors of steamboats in reference to that matter, and followed his suggestions.

Mr. HOLMAN. It is to be necessarily a drawbridge?

Mr. YOUNG. Yes, sir.

Mr. HOLMAN. One or more?

Mr. REED. I can not hear the discussion.

The SPEAKER. There are a great many discussions going on.

Mr. HOLMAN. I do not wish to object.

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

Mr. WELLER. The gentleman from Tennessee is willing to entertain the amendment which I offered. In line 5, section 7, after the word "maintained," insert "at the time of erection of said bridge."

Mr. YOUNG. I am willing to let it go in.

The SPEAKER. The Chair hears no objection to the consideration of the bill, and the question will first be on the amendment of the gentleman from Iowa.

Mr. WELLER'S amendment was agreed to.

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

Mr. YOUNG 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.

ATLANTIC AND PACIFIC LAND GRANT.

Mr. MILLIKEN rose.

Mr. MCMILLIN. I demand the regular order of business.

Mr. COBB. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. COBB. I desire to submit a conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. 7162) to forfeit the unearned lands granted to the Atlantic and Pacific Railroad Company to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast and to restore the same to settlement, after full and free conference have been unable to agree.

THOMAS R. COBB,
BARCLAY HENLEY,
L. E. PAYSON,
Conferees on the part of the House.

JOHN T. MORGAN,
H. W. BLAIR,
P. B. PLUMB,
Conferees on the part of the Senate.

Mr. COBB. I desire to call the attention of the House specially to the conference report. I do not care to discuss it myself. But I trust if there are any members on the floor who desire to discuss it they will do so. This is a report coming from the committee of conference having in charge the Atlantic and Pacific land-grant bill. The committee of conference have failed to agree, the difference growing out of the amendment which was placed on the bill by the Senate, commonly known as the Morgan amendment.

The reason why I call the attention of the House to it is that we want a full and fair expression of the opinion of the House with reference to that amendment. I may say this: that I believe that the committee will be able to agree in the future; that the committee of conference on the part of the House will be able to sustain the views your committee have already expressed; that the Senate, in other words, will recede from its amendment. The Senate has done so to the extent of rejecting this amendment, when offered by the Senator from Alabama, to the Oregon Central land-grant bill. They refused to place that amendment upon that bill; and for greater reasons the amendment ought not to be placed upon the Atlantic and Pacific land-grant bill. There are no good reasons to my mind which ought to cause the Senate to insist on this amendment to the Atlantic and Pacific land-grant bill. There are no intervening rights known to your committee which would warrant us, in my judgment, concurring in the Morgan amendment.

What we do desire is to have as full an expression of the opinion of the House as possible upon this report, whether or not we will insist upon our position and stand by it, whether the House will sustain us in that or not. I do not care to discuss the question myself as it was pretty fully discussed by members of the Committee on Public Lands when the bill was before the House before. The facts were then stated fully in detail, and the law in the case was generally discussed. I do not care, therefore, to go over that ground again unless it is desired by some gentleman to have a fuller discussion of the subject; or if any gentleman has any suggestion to make in regard to these amendments of the Senate I shall be glad to hear him, and the committee of which I am a member will be pleased to hear any suggestions which are calculated to throw light upon the subject. We think we are in possession of all

the facts and all the laws governing the case, but we are ready and anxious to hear any one who may have anything to say upon the subject.

The SPEAKER. What motion does the gentleman from Indiana submit?

Mr. COBB. To insist upon the disagreement, and ask a further conference.

Mr. HISCOCK. Has the Senate amendment been read?

Mr. COBB. It has been read; not this morning, however.

Mr. HISCOCK. I think the Senate amendment ought to be read.

The SPEAKER. The gentleman has the right to have the amendments of the Senate read, for the motion is to insist upon the disagreement and ask a further conference.

Mr. COBB. I have not the bill before me, but I have the amendments as printed in the RECORD.

The SPEAKER. The bill itself ought to be in the possession of the conferees when they make their report.

The Chair will ask the gentleman from Indiana whether the House conferees disagree as to all of the Senate amendments to that bill, or only to one of them?

Mr. COBB. We disagree to all of them.

The SPEAKER. The Clerk will read the amendments of the Senate.

The Clerk read as follows:

Strike out after the word "forfeited," in line 17, down to and including line 24, as follows:

"And the title thereto resumed by the United States, and said lands restored to the public domain, and made subject to disposal under the general laws of the United States as though said grant had never been made; but nothing in this act shall be construed to recognize the right of said company to any land in the Indian Territory, or claim thereto, on condition or otherwise, except the right of way and land for stations."

And insert:

"And the title thereto resumed by the United States, and said lands declared to be part of the public domain, but not subject to disposal under the general laws of the United States until after the termination of the legal proceedings prescribed by this act: *Provided*, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even-numbered sections within said grant.

"SEC. 2. That jurisdiction is hereby conferred on the circuit court of the United States for the western district of Missouri to hear and determine all questions and controversies concerning the rights and equities in said forfeited land that are claimed or asserted by the United States, or by any person or corporation claiming the same under or in consequence of any law of the United States, or any act of its lawfully authorized agents, and to enforce any judgment or decree, either interlocutory or final, that said court shall render in respect of said lands or any interest therein.

"SEC. 3. That it shall be the duty of the district attorney of the United States for the western district of Missouri, under the direction of the Department of Justice, immediately to proceed in the circuit court of the United States for the said district, by bill in equity, in the name of the United States of America as plaintiff, against any corporations or persons that claim any interest in the lands hereby declared forfeited, arising under said act of Congress approved July 27, 1866, or under this act, so as to bring before said court for its determination the validity of such claim, whether the same be legal or equitable.

"SEC. 4. That any person or corporation not made a party defendant in said proceeding, but claiming any interest under the laws of the United States in the lands, or any part thereof, which are declared forfeited by this act, may present such claim by petition in said cause, duly verified by oath; and if the court, upon consideration thereof, shall decide that the adjudication and settlement of such claim are necessary to do complete justice in said cause, the court shall direct that such further proceedings be had upon such petition as that the same may be fully heard and determined, and shall proceed to decree upon the same as fully as if such petitioner had been made a party defendant in said suit: *Provided*, That no such petition shall be filed after twelve months from the date of the filing of the bill in said cause.

"SEC. 5. That the court, if it shall see fit, may tax all the costs of the suit under the third section of this act against the United States, and shall apportion the costs of any proceeding under the fourth section of this act between the parties according to justice and equity. Any party to the suit instituted under this act shall have the right of appeal from any final decree thereon to the Supreme Court of the United States, in the same manner and under the same conditions as are prescribed by law and the rules of said court for appeals in equity cases; and the Supreme Court shall cause said appeal to be advanced on the docket so that the same shall be speedily determined; but no right of appeal shall exist after six months from the time when said final decree is entered on the records of the circuit court of the United States.

"SEC. 6. That nothing in this act shall be construed to recognize the right of said company to any land in the Indian Territory, or claim thereto, on condition or otherwise, except the right of way and land for stations."

Mr. HISCOCK. I would like to inquire of the gentleman from Indiana as to the purport of these amendments of the Senate. From the reading of the amendments, as I understand them, it would seem that they hold in abeyance the disposition of these lands, and provide for a judicial determination of the rights of the parties—that is to say, it opens the courts for all parties, and in the mean time it holds in abeyance the title, as far as any disposition may be made of the lands.

Mr. COBB. That is the effect of the amendment. It provides further that the Attorney-General shall commence suit and have the matter judicially determined by the courts, making the United States the plaintiff, and requiring the institution of these suits by the Attorney-General for the purpose of settling the question of forfeiture, as well as such other questions as may intervene with reference to the lands covered by this bill.

Mr. HISCOCK. I desire to inquire whether there is any objection to providing a way in which the rights of these parties may be promptly determined, getting the matter before the courts at once.

Mr. COBB. We think so.

Mr. HISCOCK. I would like that the House should be advised upon that subject as to what objection there can be to providing some speedy way for the determination of the rights of parties to this land. Of course I assume that the Senate, from its amendments, has grave doubts as to what these rights are; or at least that there is serious doubt with reference to the matter; and that it is wise to reach a conclusion speedily. I would like therefore to have the ground of the objection fully stated.

Mr. OATES. Mr. Speaker, the first part of the first amendment, relating to the forfeiture in this case, is perhaps an improvement of the verbiage of the bill, and the second portion of the first part of the amendment is only to make that part of the bill in accordance with the Senate amendment.

The second amendment not only sends any controversy that may arise to the courts of the United States, but compels the district attorney of the United States in the district named to commence proceedings, and in that way makes the Government the actor, whether it desires to enter into the controversy or whether there be just cause to enter into the controversy or not. I therefore concur with my colleague from Indiana [Mr. COBB] in the opinion that this amendment is improper; and while I would favor any provision that would give either party in interest the right, if they have it not under the general law, to go into the courts of the United States for the purpose of adjusting their rights, I do not and would not favor the second amendment, which compels the Government to go into the courts.

Mr. HISCOCK. Will the gentleman from Alabama yield to me for a question, as I wish the House to be fully informed upon this subject? Would the gentleman do this: would he open these lands to entry under the homestead or pre-emption law with this question of title undetermined? I desire to make this suggestion, whether it is wise for the Government to turn this land back into the public domain subject to entry under these laws, the homestead and pre-emption laws, leaving the question of legal ownership undetermined?

Now, then, is it not wise to provide the Government shall go ahead and have this question determined, to the end that a period may be soon fixed and the rights settled of these parties in these lands with reference to their going back into the public domain?

Mr. OATES. I think the bill settles the question of law, subject, of course, to the adjudication of the court. But I would not compel the Government to inaugurate proceedings for the purpose of adjusting any claims of other parties.

Mr. HISCOCK. Suppose this land is turned over immediately and becomes a part of the public domain under this act, it is made subject to entry under the homestead law. Now suppose you do go to the court and the court should perchance hold this railroad company had some right or title to this land, then of course claimants to this land, parties that have entered upon it, will come here with their claims for indemnity. Now the point on which I wish information is whether it is not best to have that question settled with reference to the future before this land becomes a part of the public domain, and if that is wise whether the Government should not proceed promptly to have it settled.

Mr. OATES. The gentleman from New York certainly knows it has been frequently adjudicated by the highest courts that he who purchases land from the Government takes it under the maxim *caveat emptor*.

Mr. HISCOCK. I concede that to be true. But since I have been here I believe I know of instances where the parties making entries went upon the land and made improvements upon it and we gave compensation. I believe, notwithstanding that technical rule, when by an act of Congress we have turned over land and invited people to enter on it they are entitled to the sympathy of Congress.

Mr. OATES. The measure of relief to which such parties are entitled, having entered upon the land under the maxim I have alluded to, is the amount of money they paid for it. And sufficient unto the day is the evil thereof. I think we can wait until the exigency arises.

The SPEAKER. The gentleman from Indiana [Mr. COBB] moves that the House insist on its disagreement to the Senate amendment and ask for a further conference.

Mr. HISCOCK. I move that the House recede from its disagreement to the Senate amendment.

The SPEAKER. The motion to recede has preference over the other.

The question being taken on Mr. HISCOCK'S motion, there were—ayes 45, noes 85.

So (further count not being called for) the motion was not agreed to.

The SPEAKER. The question recurs on the motion of the gentleman from Indiana [Mr. COBB].

The motion was agreed to.

The SPEAKER. The Chair appoints as managers of the conference on the part of the House the gentleman from Indiana, Mr. COBB, the gentleman from California, Mr. HENLEY, and the gentleman from Illinois, Mr. PAYSON.

PROTECTION OF CHILDREN IN THE DISTRICT.

Mr. WILSON, of West Virginia. I ask unanimous consent to take from the Speaker's table the bill (S. 729) for the protection of children in the District of Columbia, and for other purposes, desiring to move that the House insist on its amendments to the bill disagreed to by the Senate and agree to the conference asked by the Senate.

Mr. HOLMAN. I ask that the amendments be read.

The amendments were read, as follows:

In line 20, page 1, strike out the words "within their view" and insert the words "in the presence."

In line 27, page 2, strike out "twenty-one" and insert "sixteen."

The SPEAKER. The gentleman from West Virginia [Mr. WILSON] moves that the House insist on its amendments and agree to the conference requested by the Senate.

The motion was agreed to.

The SPEAKER. The Chair appoints as managers of the conference on the part of the House the gentleman from West Virginia, Mr. WILSON, the gentleman from New York, Mr. SPRIGGS, and the gentleman from Mississippi, Mr. JEFFORDS.

ORDER OF BUSINESS.

Mr. McMILLIN. I call for the regular order.

The SPEAKER. This being Friday, the regular order is the call of committees for reports of a private nature.

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

The question being taken, there were—ayes 79, noes 45.

So (two-thirds not having voted in favor thereof) the motion was not agreed to.

THOMAS F. PURNELL.

Mr. TUCKER, from the Committee on the Judiciary, reported back with a favorable recommendation the bill (H. R. 7411) for the relief of Thomas F. Purnell; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

HARRY W. MARTIN.

Mr. CUTCHEON, from the Committee on Military Affairs, reported back with an adverse recommendation the bill (H. R. 5590) for the relief of Harry W. Martin; which was laid on the table, and the accompanying report ordered to be printed.

HARRIET ARMSTRONG.

Mr. MATSON, from the Committee on Invalid Pensions, reported back with amendments the bill (H. R. 1898) granting a pension to Harriet Armstrong; which was referred to the Committee of the Whole House on the Private Calendar, and, with the amendments and accompanying report, ordered to be printed.

WILLIAM HAZLE.

Mr. MATSON, from the Committee on Invalid Pensions, also reported back with an adverse recommendation the bill (H. R. 7090) for the relief of William Hazle; which was laid on the table, and the accompanying report ordered to be printed.

LOUISA A. ESTES.

Mr. MORRILL, from the Committee on Invalid Pensions, reported back with a favorable recommendation the bill (H. R. 7709) granting a pension to Louisa A. Estes; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CORNELIA V. BLACKMAN.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7571) granting a pension to Cornelia V. Blackman; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

AMOS M'DOWELL.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7572) granting a pension to Amos McDowell; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HOLDEN COOK.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7707) granting a pension to Holden Cook; which was referred.

CAROLINE TRECKELL.

Mr. MORRILL, from the Committee on Invalid Pensions, also reported back favorably the bill (S. 929) granting a pension to Caroline Treckell; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

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

A bill (H. R. 7601) granting a pension to James Dye;
A bill (H. R. 7599) granting a pension to Eli W. Campbell;
A bill (H. R. 7330) for the relief of Henry Van Blaricom;
A bill (H. R. 540) granting a pension to Henry C. Williams;
A bill (H. R. 7782) granting a pension to John Benson;
A bill (H. R. 7435) granting a pension to L. A. Davis;
A bill (H. R. 7487) granting a pension to James Brown; and
A bill (H. R. 7448) to increase the pension of Robert M. Forsythe.

ABBY P. ARNOLD.

Mr. LOVERING, from the Committee on Invalid Pensions, reported back favorably the bill (S. 764) granting an increase of pension to Abby P. Arnold; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ABBY S. SLOCUM.

Mr. LOVERING, from the Committee on Invalid Pensions, also reported back adversely the bill (S. 1427) granting an increase of pension to Abby S. Slocum; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HONORA M'CARTHY.

Mr. LOVERING, from the Committee on Invalid Pensions, also reported back adversely the bill (H. R. 764) granting a pension to Honora McCarthy; which was laid on the table, and the accompanying report ordered to be printed.

ANN E. GRIDLEY.

Mr. WINANS, of Michigan, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MRS. ADELINE E. CHADBOURNE.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. 7673) granting a pension to Mrs. Adeline E. Chadbourne; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SARAH S. SAMPSON.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, also reported back, with an amendment,, H. R. 6311 granting a pension to Mrs. Sarah S. Sampson; 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.

EBENEZER K. MARDEN.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, also reported back favorably the bill (S. 1823) granting a pension to Ebenezer K. Marden; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JOHN SWEENEY.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, also reported back favorably the bill (S. 1112) granting a pension to John Sweeney; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ALBERT D. SIMMONS.

Mr. PATTON, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7295) granting a pension to Albert D. Simmons; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SARAH KENNEDY.

Mr. PATTON, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 2692) granting a pension to Sarah Kennedy; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HENRIETTA A. LEWIS.

Mr. PATTON, from the Committee on Invalid Pensions, also reported back adversely the bill (S. 1858) to increase the pension of Henrietta A. Lewis, widow of Capt. Robert F. A. Lewis; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MRS. LOU GOBRIGHT M'FALLS.

Mr. BAGLEY, from the Committee on Invalid Pensions, reported back adversely the bill (S. 1446) granting an increase of pension to Mrs. Lou Gobright McFalls; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM E. AYERS.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7773) granting a pension to William E. Ayers; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MARY F. BLAKE.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back favorably the bill (H. R. 7538) granting an increase of pension to Mary F. Blake; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JOSIAH SCOTT.

Mr. BAGLEY, from the Committee on Invalid Pensions, also reported back adversely the bill (H. R. 7637) granting a pension to Josiah Scott;

which was laid on the table, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

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

A bill (H. R. 7734) for the relief of James H. Horton;

A bill (H. R. 7777) granting a pension to William Christie; and

A bill (H. R. 7195) for the relief of Stephen Sauer.

WIDOW OF COMMANDER S. DANA GREENE.

Mr. ROBINSON, of New York, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. 7830) granting a pension to the widow of the late Commander S. Dana Greene, United States Navy; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MRS. EMILY L. ALVORD.

Mr. WOLFORD, from the Committee on Pensions, reported back favorably the bill (H. R. 7659) granting a pension to Mrs. Emily L. Alvord; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HEIRS OF MARY JANE VEAZIE.

Mr. GEDDES, from the Committee on War Claims, reported back with amendments the bill (H. R. 851) for the relief of the heirs of Mary Jane Veazie, deceased; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

STEPHEN G. DORSEY.

Mr. ROGERS, of New York, from the Committee on War Claims, reported back adversely the petition of Stephen G. Dorsey, accompanied with a report of the Court of Claims in the case of Stephen G. Dorsey *vs.* The United States; which was laid on the table, and the report of the committee, together with the accompanying report of the Court of Claims, ordered to be printed.

SAMUEL CONES.

Mr. JONES, of Wisconsin, from the Committee on War Claims, reported back with amendments the bill (H. R. 3276) for the relief of Samuel Cones; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JAMES M. MASON.

Mr. PRICE, from the Committee on Claims, reported, as a substitute for H. R. 3824, a bill (H. R. 7969) for the relief of James M. Mason; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed; and, by unanimous consent, the bill H. R. 3824 was laid on the table.

ANN ANNIS.

Mr. MORGAN, from the Committee on Military Affairs, reported back with amendments the bill (H. R. 2906) for the relief of Ann Annis; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

TENTH CENSUS.

Mr. COX, of New York, by unanimous consent, submitted from the Select Committee on the Tenth Census a report upon the bill (H. R. 4843) to further carry out an act entitled "An act to provide for the taking of the tenth and subsequent censuses," approved March 3, 1879; when the report was ordered to be printed, and recommitted.

FORFEITURE OF RAILROAD LAND GRANT IN OREGON.

Mr. COBB. I ask unanimous consent that the bill (H. R. 181) to declare the forfeiture of certain lands granted to aid in the construction of a railroad in Oregon be taken from the Speaker's table for non-concurrence in the amendments of the Senate.

There being no objection, the bill was taken from the Speaker's table, and the House proceeded to consider the same.

Mr. COBB. I move that the House non-concur in the amendment of the Senate, and ask a conference.

The motion was agreed to.

The SPEAKER. The Chair will announce hereafter the conferees on the part of the House.

MARY A. GRENNON.

Mr. PARKER. I ask unanimous consent that a bill reported adversely from the Committee on Invalid Pensions and laid on the table may be placed on the Private Calendar. It is the bill (H. R. 3735) for the relief of Mary A. Grennon.

The SPEAKER. Was the bill reported this morning?

Mr. PARKER. No, sir; it was reported heretofore, when I was not present, so that I did not know of its being reported adversely.

The SPEAKER. The Chair will direct that the bill be placed on the Calendar of the Committee of the Whole House. Any gentleman has the right to have placed on the Calendar a bill reported adversely. Such bills are laid on the table only by unanimous consent.

ORDER OF BUSINESS.

Mr. MCMILLIN. I move that the House resolve itself into Committee of the Whole for the purpose of proceeding with business on the Private Calendar.

Mr. TOWNSHEND. Mr. Speaker, I wish to know whether I can raise the question of consideration as between the Mexican pension bill and the motion of the gentleman from Tennessee [Mr. MCMILLIN].

The SPEAKER. The gentleman from Illinois [Mr. TOWNSHEND] can oppose the motion made by the gentleman from Tennessee to go into Committee of the Whole House; but there can be no question of consideration raised against such a motion.

Mr. TOWNSHEND. Then I hope the motion will be voted down, in order that we may take up the Mexican pension bill to-day.

The SPEAKER. The Chair will state to the gentleman that this is private bill day.

Mr. TOWNSHEND. But a majority vote, as I understand, will enable us to take up the Mexican pension bill.

The question being taken on the motion of Mr. MCMILLIN, there were—ayes 107, nays 15.

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

Mr. MCMILLIN. I hope the gentleman will not press that point. This day is assigned by the rules to private business; and if any business of that sort is to be done this session, it must be done now.

The SPEAKER. The question is not debatable.

Mr. MCMILLIN. I know that, Mr. Speaker, but believed the House would indulge me to make this statement.

Mr. TOWNSHEND. If we can have a vote upon this question by yea and nay, I will withdraw the point as to a quorum. I want gentlemen to go on record as to whether they are in favor of the Mexican pension bill or not.

The SPEAKER. No quorum having voted, the Chair will appoint tellers.

Mr. TOWNSHEND. I make the proposition that we have the yeas and nays.

The SPEAKER. No one has demanded the yeas and nays.

Mr. HEWITT, of Alabama. We would have no objection to going on record upon the Mexican pension bill; but the bill to which the gentleman from Illinois [Mr. TOWNSHEND] refers is not the Mexican pension bill, but the Senate's amendments, which are against the Mexican pensions.

The SPEAKER appointed as tellers Mr. MCMILLIN and Mr. TOWNSHEND.

[The tellers proceeded to take their places, but some disagreement arose between them as to the places they should respectively occupy.]

Mr. KELLEY. Mr. Speaker, I understand that tellers have been appointed; but members who desire to vote can not find them. [Laughter.]

Mr. MCMILLIN. I have taken the position usually assigned to those appointed to act as tellers, and am ready to act as teller.

Mr. TOWNSHEND. And so have I.

Mr. BROWNE, of Indiana. If the tellers can not agree upon their respective places——

Mr. KELLEY. I ask that, as tellers have been ordered, the gentlemen may take their places, so that the vote may be counted. If they cannot find their positions, I ask——

Mr. MCMILLIN. I am occupying the accustomed position for the tellers. I insist that the gentleman from Illinois ought not to undertake to change the method that has been adopted here for nearly a century.

Mr. TOWNSHEND. I ask that the Speaker appoint some other member to take my place.

The SPEAKER. The Chair appoints as a teller the gentleman from Indiana [Mr. HOLMAN].

Mr. TOWNSHEND. I shall ask for the yeas and nays.

The SPEAKER. Does the gentleman demand them?

Mr. TOWNSHEND. I will demand the yeas and nays if I can do so at this time without waiving the right of insisting on the point that there is no quorum.

The SPEAKER. The gentleman's proposition can not be entertained, as the tellers have not yet reported.

The tellers reported—ayes 137, noes 34.

Mr. TOWNSHEND. I demand the yeas and nays. I have made an effort to see how many friends there are of the Mexican pension bill, and I see only thirteen on the other side.

On the demand for the yeas and nays there were—ayes 23.

Mr. HOLMAN. Count the other side.

The other side was counted; and there were—noes 122.

Mr. TOWNSHEND. No quorum.

The SPEAKER. No quorum is required for the yeas and nays and one-fifth of those present have not voted for them, and they are therefore not ordered. On the motion of the gentleman from Tennessee [Mr. MCMILLIN] there were ayes 127, noes 34. So the ayes have it, and the motion is agreed to.

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

HIRAM JOHNSON.

The CHAIRMAN. The first business on the Private Calendar is the bill (H. R. 1477) to pay Hiram Johnson and other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected.

Mr. TALBOTT. I move that all the bills upon the Private Calendar be set aside or informally passed over until we reach the bill (H. R. 2158) for the benefit of John C. Herndon.

The CHAIRMAN. That can only be done by unanimous consent.

Mr. GEDDES. I object. In reference to the Hiram Johnson bill, I think it is improperly on the Calendar. It was disposed of at the last session of the House by a reference of it to the Committee on War Claims, where it is now pending.

Mr. MCMILLIN. I think the gentleman from Ohio on examination of the RECORD will find there was an agreement that this bill should retain its place on the Calendar, and that is how it came to be here, so that when it was reported back it should not go to the heel of the Calendar.

Mr. GEDDES. That may be the case.

Mr. MCMILLIN. I am not sure, as I speak from a memory six months old. I ask that the bill be passed over informally.

There was no objection, and it was ordered accordingly.

PRIVATE LAND CLAIM.

The next business on the Private Calendar was the bill (H. R. 130) to confirm a certain private land claim in the Territory of New Mexico.

Mr. MCMILLIN. The gentleman from Kentucky [Mr. HALSELL] who has reported this bill has requested me to move that it be passed over informally, and I make that motion.

There was no objection, and it was ordered accordingly.

INDIAN APPROPRIATION BILL.

The committee informally rose; and the Speaker having resumed the chair, Mr. ELLIS, from the Committee on Appropriations, reported a bill (H. R. 7970) making appropriations for the current and contingent expenses of the Indian Department and for the fulfillment of treaty stipulations with various Indian tribes for the year ending June 30, 1886, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. ELLIS. I give notice that I shall ask for its consideration tomorrow.

WILLIAM H. DAVIS.

The committee resumed its session.

The next business on the Private Calendar was the bill (H. R. 4382) for the relief of William H. Davis.

The bill was read, as follows:

Be it enacted, &c., That the sum of $3,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to indemnify William H. Davis for the destruction of his wharf and warehouse at San Diego, in the State of California, by the United States troops, during the winter of 1861 and 1862. That the sum hereby appropriated is made immediately available.

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

The claimant in this case asks to be allowed and paid the sum of $60,000 to indemnify him for the destruction of his wharf and warehouse at San Diego, in the State of California, by United States troops, during the winter of 1861 and 1862. He avers that in the year of 1861 and 1862 he was the lawful owner and in the actual peaceable possession of said property, in what was then known as the New San Diego. The wharf was constructed of wood, 550 feet in length and 50 feet in width, with an addition adjoining the same at right angles 225 feet in length, the whole being constructed of piles of redwood of from 30 to 75 feet in length, and from 15 to 28 inches in diameter, driven into the soil six feet apart, and braced together with plank, and covered with imported spruce plank. The warehouse stood contiguous to and was used in connection with the said wharf for the storage of goods. It was constructed of heavy timbers and planks, and being 50 feet in length by 32 feet in width, and two stories high. The alleged cost of the construction of said property was the sum of $60,000; that at the time the same was destroyed by the United States troops it was in a good state of preservation, as he claims, and worth the sum of $60,000.

It is further claimed that said property was appropriated and rendered useless by the United States troops in active service, under the command of Maj. G. O. Haller and other officers; that the material of said wharf was used for fuel, building, and for other purposes by said soldiers.

It is further claimed that it was the only wharf then existing at said town of San Diego; that from the time of its construction in 1851 until its destruction in 1861 the claimant had received wharfage affording a net average profit of $150 per month.

This claim was first presented to Congress in 1872, where it has been upon the files of the committees of the two Houses without action until the Forty-fifth Congress, when it was reported favorably by the Claims Committee of the Senate and the Committee on War Claims of the House. It was not reached on the Calendar of Private Business, and was again re-referred in the Forty-sixth Congress, when an act was passed approved March 3, 1881, as follows:

"An act for the relief of William H. Davis.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, 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 alleged taking by the United States authorities, for the use of the United States troops, during the years 1861 and 1862, of a certain wharf and warehouse property, formerly situated in San Diego, Cal., alleged to have been the property of William H. Davis, of Oakland, Cal., and to have been used by troops of the United States for fuel; such investigation to extend to the title of the property and the incumbrances thereon the status of the owner, whether loyal or not, the value of the property destroyed, the circumstances of the destruction, and by whose direction, authority, or permission it was destroyed, and the reasons for the neglect to give notice to the War Department at or soon after the destruction occurred; and when such investigation shall be completed the Secretary of War shall report the result thereof, with his recommendation thereon, to Congress for action in the premises.

"Approved March 3, 1881."

In pursuance of the above act the Secretary of War authorized and directed an investigation of said claim by the Quartermaster's Department of the United States Army, and report the conclusions to which the Quartermaster-General would arrive after consideration of the evidence upon the questions submitted. The case was referred by the War Department to the Quartermaster-General's Department, April 5, 1881, and immediately re-referred to Colonel Saxton for investigation. A thorough investigation followed and was returned by him to the Quartermaster's Department November 12, 1881, as follows:

"PHILADELPHIA, PA., *November* 12, 1881.

"GENERAL: I have the honor to return herewith your reference of the 8th of April, 1881, directing me to investigate, in compliance with private act No. 106 [chap. 200], approved March 3, 1881, the claim of William H. Davis, of Oakland, Cal., *vs.* The United States, for use of certain wharf and warehouse property at San Diego, Cal., alleged to have been used by troops of the United States in 1861–'62.

"No papers connected with the claim were referred to me, but putting myself in communication with Mr. Davis, he placed at my disposal copies of his original petition to Congress and affidavits before Congress, and also presented new evidence in the case, as well as other papers bearing upon the subject.

"Learning from some articles published in the San Francisco Chronicle early in 1880 that the claim had been denounced a fraud, I called upon the editor of that journal, and obtained from him a list of persons whose evidence he advised taking. He also gave me the address of the writer of the articles in his paper against the claim, Mr. B. F. Catlin, a clerk in the San Francisco naval office. Messrs. Catlin and Davis also furnished me the names of a number of persons who were supposed to have knowledge of the facts in the case, and on May 18, 1881, I sent to each of these parties, whom I could not see personally, a letter (copy inclosed, marked 1), requesting their testimony in the form of an affidavit as to their knowledge of the matter. I received but very few responses to this letter.

"Desiring to verify the testimony of as many of the witnesses who had already testified as possible, and to place the evidence I could gather bearing upon the case in a convenient form for reference, I constituted myself a committee of investigation, employing one of my clerks as recorder. I held sessions at San Francisco, on May 2, 7, 8, and 9; at San Diego, June 7, 8, and 9; and again at San Francisco July 21, August 25, September 1, 17, and 28, 1881.

"In the case of all the previous witnesses who were yet alive, whose presence could be obtained, they verified their previous testimony, except in a few unimportant instances, where slight corrections were made.

"There came also before the commission other witnesses, testifying both for and against the claim.

"The fact that the witnesses were so widely scattered has made the investigation occupy a period of several months, but it was at last concluded on the 28th of September, 1881. At this time Surgeon Baily, U. S. A., having ordered a change of climate as necessary to my recovery from a severe attack of rheumatism, I went on leave of absence, and this has delayed my final report until the present time.

"I inclose herewith a full report of the proceedings of the commission (see inclosure marked 2), together with affidavits pro and con (marked Exhibits A to W, inclusive). I inclose also a tracing made in my office of a map of San Diego, on file in the engineer's office, headquarters Military Division of the Pacific. This map shows the location of Davis's wharf and warehouse, as well as the location of the block now occupied by the United States military barracks and the Government wharf site, which were given by Mr. Davis to the United States. It does not, however, show the location of another block given by Mr. Davis to the United States, and which is now used as a quartermaster's corral and stables. (See inclosure marked 3.)

"In addition to my report of the proceedings of the commission of investigation, I submit the following as replies to the questions embraced in the act of relief, answering them *seriatim*:

"1. The title to the property and the incumbrances thereon?

"The title is not questioned. It is partially proved by the testimony taken, and the records of the assessor's office at San Diego, which I saw, showed the property to have been assessed in Mr. Davis's name for taxes for several years past before 1861.

"2. The status of the owner, whether loyal or not?

"The testimony is full and explicit on this point, and I have not heard Mr. Davis's loyalty questioned.

"3. The value of the property destroyed?

"The testimony shows the property to have been worth from sixty to eighty thousand dollars when built, and for some time thereafter, but it is greatly at variance as to its value in the winter of 1861–'62.

"4. The circumstances of the destruction and by whose direction or permission it was destroyed?

"The evidence on this point is voluminous and is very contradictory. A large number of witnesses, including several ex-Army officials, testify to the destruction of the property; while others, also including ex-officers and soldiers, testify to the reverse. A charitable explanation of this discrepancy in the evidence is that men's memories are not always to be relied upon after a lapse of eighteen years.

"5. The reasons for the neglect to give notice to the War Department at the time or soon after the destruction occurred?

"This point is fully answered by the testimony taken.

"The sessions of the commission of investigation were open, and the most of the testimony was given orally, and recorded by my clerk. Mr. Davis did not employ a clerk or stenographer, and shortly before the labors of the commission closed, his attorney, Mr. Metcalfe, asked me to furnish him, at his expense, a copy of the testimony taken and of all the affidavits printed, in order that he might make up his argument in the case. I was not certain that I had the authority to grant his request, and advised him to apply to the War Department for permission, which he did. In the mean time I allowed him to read my record and complete his argument in my office, and to have the paper printed under the supervision of my chief clerk, no copies to be delivered until the Secretary of War should give the necessary authority. This has since been given, and printed copies similar to the one inclosed have been furnished the claimant's attorney, to which he has appended his own argument. I inclose this in addition as convenient for reference in making up your report on the case. In conducting this examination it has been my earnest endeavor to collect all the evidence possible bearing on the case, and to put it in such a form as to enable the Department to come to a correct judgment.

"In the hope that I have been in a measure successful,

"I am, very respectfully, your obedient servant,

"RUFUS SAXTON,

"*Deputy Quartermaster-General,*
Chief Quartermaster Military Division of the Pacific.

"The QUARTERMASTER-GENERAL, U. S. A."

On the above report of Col. Rufus Saxton, as above given, the Quartermaster-General made a report December 5, 1881, in which, among other things, he says:

"As a result of the investigation, I am of opinion that—

"First. The title of the property is in W. H. Davis, the claimant. No incumbrances thereon have been discovered.

"Second. The owner was loyal.

"Third. The value of the lumber taken for fuel did not exceed $3,000 as material.

"Fourth. There was an unusual rainfall in December, 1861, and January, 1862, which probably rendered it difficult to haul fuel for the garrison, and this led the garrison to use a portion of the material on the wharf for fuel. The wharf being thus injured, they may have used a small quantity also for fencing, and one or two shallow wells may have been supplied with wooden curbs from the same source.

"Fifth. The commanding officers, Capts. Thomas E. Roberts and W. F. French, California Volunteers, were present, and as the wharf material could not have been taken up and burned in the barracks and quarters without their knowledge, they must be held accountable for whatever depredation was actually committed by the troops.

"Sixth. The reasons for not notifying the War Department at or soon after the injury was done are to be found in the impoverished condition of the claimant; his absence at a long distance from San Diego, the slow communication by mail between San Diego and that part of California in which he then resided, and also in the fact that the War Department when the mischief was done had no power to relieve him by payment of damages."

Thereupon the Secretary of War reported to Congress as follows:

"WAR DEPARTMENT,
"*Washington City, December* 13, 1881.

"SIR: In pursuance of the act of Congress approved March 3, 1881, entitled "An act for the relief of William H. Davis," I have the honor to report that the investigation thereby directed to be made has been completed, and that the result thereof is embodied in a report of the Quartermaster-General of the United States Army, a copy of which is herewith transmitted, together with copies of the papers on which it is based.

"In further pursuance of the above-mentioned act, I have the honor to recommend that the authority of Congress be given for the payment to said William H. Davis of the sum of $3,000, with interest thereon from the 1st day of February, 1862, at the rate of 6 per cent. per annum, in full satisfaction of his claim arising out of the matters referred to in the said act.

"Very respectfully, your obedient servant,
"ROBERT T. LINCOLN,
"*Secretary of War.*

"The SPEAKER *of the House of Representatives.*"

The principal and most difficult question involved in this case from the beginning has been the measure of compensation to which the claimant was entitled. The unsatisfactory character of the testimony submitted prior to the act of March 3, 1881, led the Committee on War Claims to submit to this House a report which induced said legislation. In that report, Mr. Colwell, among other things, says:

"Other proof as to their value is wanting, and your committee is of opinion that even if affidavits of experts were presented it would not be entirely fair to the Government to have this point left entirely to *ex parte* testimony. They have thought better to let the damages be assessed by a sworn officer of the Government; and as the facilities at the command of the Secretary of War for determining this point are better and can be applied more readily than perhaps those of any of the officers of the Government, they report in favor of leaving this task to him."

Congress having submitted to the War Department for investigation and to report on all the questions involved in this case, your committee, after a careful examination of the evidence taken and the reports made thereon, see no reason for overruling the findings submitted. Your committee therefore recommend the passage of the accompanying substitute for the bill (H. R. 107) filed herein.

Mr. GLASCOCK. I move a substitute for the pending bill.

The Clerk read as follows:

Strike out and insert as follows:

"SECTION 1. That the claim of William H. Davis, of Oakland, Cal., for the alleged destruction of his wharf and warehouse at San Diego, in said State, during the winter of 1861–'62, by Union troops, be, and the same is hereby, referred to the Court of Claims for adjudication, with jurisdiction to ascertain and render judgment for the actual value only of the aforesaid property so destroyed, without interest: *Provided*, That the testimony taken pursuant to an act of Congress entitled 'An act for the relief of William H. Davis,' approved March 3, 1881, or filed before the commissioner, Col. Rufus Saxton, designated to make the investigation directed by said act, or true copies of said testimony, may be used on trial before the Court of Claims by either party, together with such competent evidence as may be introduced by either party: *And provided further*, That the said Davis shall begin his action to recover said claim within one year from the passage of this act."

Mr. GLASCOCK. Mr. Chairman, as the report of the committee, read at the Clerk's desk, has been so full in this statement pertaining to the history of this matter, I have no desire to detain the House by making any unnecessary or tedious relation of the facts involved. However, as these reports as read by the Clerk are rarely listened to by members I desire to make a brief statement, after which I am satisfied the merits of this case will become so apparent to the House that the modest measure we ask will be adopted—that is, reference to the Court of Claims, so it may be determined by a competent tribunal.

In 1850–'51 a wharf was constructed at the town of San Deigo, in California, by the claimant, William H. Davis. In 1861–'62 the testimony taken, to which I will subsequently refer, shows that that wharf was in good condition. The testimony is conflicting, I will admit, but the finding of Col. Rufus Saxton was that the wharf was in good condition at that time, not having suffered at that time from the toredo or other destroying insect. In 1861–'62 we had in California an unexampled bad winter. Rains fell. San Diego was practically cut off from the surrounding country. No teams could be run over the roads, as the horses would mire. No fuel could be obtained for the United States military post established at that place, and they were compelled to rely, I will state in passing, upon wood hauled a distance of twenty or thirty miles to afford fuel for the post. In that condition of affairs, fuel being needed, the soldiers, under and by, I submit, the instructions of their superior officers, acting upon a military necessity, I admit, took a portion of this wharf and consumed it for fuel, besides that which went into the making of fences and other Government improvements required about the post. I will admit also that the testimony is conflicting as to the amount of this wharf taken, and the warehouse, for there is a warehouse as well as a wharf embraced in the claim; but the evidence of Col. Rufus Saxton shows the work of demolition was commenced by the United States troops, and the testimony further shows that one hundred feet at least of that wharf were removed during the time when one officer was in charge of that post.

Now it is a well-known fact that when a work of demolition of this kind is commenced as a military necessity—I will admit under and by the advice and with the consent of those in charge of that post—I say as soon as this work is once begun it does not take very long for the ordinary people of the town, the laymen, to find some authority for the further demolition of the structure. Be this as it may, I submit that the Government has determined its liability in the findings adopted by the Secretary of War, and by the report rendered by him. The Secretary of War finds in his report that $3,000 worth of damage has been done to the property of this claimant, and he reports that as the extent of the liability of the United States, as admitted damages for the work of demolition. It makes no difference to us whether or not the wharf had been entirely demolished or the warehouse torn down by the authority of the United States. When its authority is once admitted, then we say this House can not refuse at least to go behind that admission on the part of the United States and ascertain the full extent of the damages.

That this was a valuable improvement is shown conclusively by the testimony of all the witnesses in the case. That it cost from sixty to eighty thousand dollars to construct it is admitted. It was bringing in a yearly revenue of $1,800 to its owner, which at a 6 per cent. rate would represent a capitalized value of $30,000 at least.

When this large and valuable improvement was attached, when the first work of demolition was begun by the authority of the soldiers of the United States, when that is admitted, we say that this House can not go behind that evidence, can not claim that the United States was not liable, or that that evidence is so conflicting that the citizen whose property has been so destroyed should be allowed only the smallest or minimum damages. We submit, sir, if the testimony is gone through with by every member of this House, if gentlemen will sit down and read it carefully, there is not a well-minded man on the floor of the House who will not come to the conclusion that Mr. Davis should have the full amount of his claim, $60,000 at least.

The committee of the Forty-seventh Congress, by whom the matter was passed upon, rendered a report through Mr. HOUK, the chairman of that committee, and advocated the payment of $20,000 as an act of partial justice at least. If this committee had presented a report giving $15,000 or $20,000 there would have been no opposition on our part, for though we believe the full amount would be just, we know how tedious matters are of this sort before this and its kindred body. But, sir, this matter being in this condition, this report having been rendered by Mr. HOUK in the Forty-seventh Congress, and having been rendered in the present case by the present Committee on War Claims, and the House, seeing the difference, on the statement of facts, between the conclusions arrived at by the present committee and that of the last House, is as well prepared to pass upon it as we ourselves who have examined it so carefully. We submit that the Secretary of War, in rendering his report advocating the payment of $3,000 as an adequate measure of damages for the destruction of this property, is entirely wrong in the basis upon which he founds his opinion. They have taken the claim and assessed the property as a claim for so much cord-wood; and valuable property, which cost from $60,000 to $80,000, which was bringing in a yearly rental of $1,800, has been destroyed by the instrumentality of the United States Government, and the damages in the case are fixed on the same basis as if it had been so much cord-wood consumed by the United States post at that time. If they had taken into consideration the value of the franchise, the value of the property, of the investment, and then arrived at a conclusion, there would have been some justice in the matter. But evidently that has not been done; and in support of that I desire to read a few words from the report of the Quartermaster-General, M. C. Meigs, rendered to the Secretary of War. He says:

The wharf was so important to the town, being apparently at the time and for many years the only wharf in its harbor, that any injury done to it by tearing up its roadway and using it for fuel or for any other purpose would make a great impression upon the town's people, and they would be liable to exaggerate the injury done.

The testimony shows that the wharf was entirely dismantled in course of time, the greater part of the injury having been done in December and January:

As the quantity of fuel needed for a month's supply appears to have been about twenty-two cords, which is equal to 33,792 feet, board measure, of timber, it appears that if the troops depended entirely upon this source of supply for their fuel during the month of December and one-half the month of January, they would have used 46,688 feet of timber, board measure.

Of 3-inch plank covering the wharf, I found that there were in place, if the covering was all there, 204,500 feet, board measure, and therefore taking up one-fifth of this covering would have furnished all the fuel that was probably needed in that time.

Soldiers do not undertake severe labor for purposes of wanton destruction, and the least laborious method of getting fuel from the wharf was to take up

the planking. I do not, therefore, think it probable that any great injury was done by them to the capping, bracing, and piles, all of heavy timber, and more securely fastened than the plank covering and more difficult to take away.

The testimony shows that the piles were sawn off even with the water.

The removal of one-fifth of the plank covering would have made a part of the wharf impassable for carts and horses. But it would not have destroyed the wharf.

At $30 per M, 46,688 feet of plank cost only $1,400. Its cost laid on the wharf at a place where skilled labor was scarce and costly may have been $2,800, and I think that the value of the material taken from the wharf by the troops for fuel can not have exceeded this sum. The wharf has disappeared, except some piles.

"I think," he says, "the value can not have exceeded this sum arrived at in this manner." I submit that no court or competent tribunal could base a conclusion of that sort upon competent evidence. There is no conclusion arrived at. There is a mere hypothesis, a guess, that the same may reach $2,800, and therefore $3,000 is given as being a large and munificent sum for this Government to tender for a total damage and destruction done to a building that cost from $60,000 to $80,000, and which was bringing in $1,800 a year revenue.

It can not be seen, Mr. Chairman, that this report is based as he has stated it. The measure of damages is board measure for a valuable franchise, so many dollars per thousand feet for a valuable wharf and warehouse. Why, sir, suppose a piano had been destroyed and used for fuel under those circumstances, the honorable Secretary would have given so many dollars for board measure for that valuable instrument. I submit it is all wrong and that this House should not countenance anything of that sort.

In conclusion, I want to state that we do not ask this House to give any $60,000 now. We do not ask this House to give any $20,000, as was advocated by the last Committee on War Claims in the Forty-seventh Congress. All we ask this House to do in justice to this man is to send the case to the Court of Claims and let it be adjudicated by a competent tribunal upon competent evidence introduced before that tribunal. That is the full extent of our claim. We say let the Court of Claims take the claim; let the testimony already collected under the law of Congress under which Colonel Saxton acted as commissioner and before whom this evidence was collected, let that evidence be considered as legal evidence before this court, and let the parties have the additional privilege of introducing any other competent testimony that they may require. And further we place a limitation upon this; we say that unless Mr. Davis prosecutes his claim before that tribunal within one year from the time of the passage of this act he shall be barred from all further claim for relief.

I reserve the balance of my time.

Mr. GEDDES. In submitting a few words in vindication of the action of the Committee on War Claims in this case, I think it proper to advert briefly in the first place to the order of proceeding in the case before I make any reference to its merits.

The damages alleged to have been sustained by this claimant are said to have occurred in the winter of 1861–'62. No claim was made by him to any department of the Government; and no appeal was ever made by him to Congress for remuneration until, perhaps, the Forty-sixth Congress, or it may have been a little earlier, certainly not until 1872, ten years after the damage is said to have accrued to him.

He then laid his claim before Congress, and on investigation of it in the War Claims Committee I find that committee concluded that the case was imperfectly prepared; that there was no such evidence, either *ex parte* or otherwise, before them as to warrant any finding of the committee. And the Committee on War Claims of this House in the Forty-sixth Congress, appreciating manifestly that the case was thus imperfectly prepared, made a report. I desire to read a single paragraph from that report as indicating the considerations that induced a reference of the case to the War Department for investigation. In that report they say:

They have thought better to let the damages be assessed by a sworn officer of the Government; and as the facilities at the command of the Secretary of War for determining this point are better, and can be applied more readily than perhaps those of any other officers of the Government, they report in favor of leaving this task to him.

Thereupon an act was passed based upon that report, approved March 3, 1881, referring the subject-matter of this claim to the War Department for investigation. That investigation followed, and was full, complete, and thorough. The officers of the Government, visiting San Francisco and San Diego and the homes of the witnesses, took a large amount of testimony, such proof as the parties representing the Government and representing the claimant had within their power and saw proper to submit.

I will read a single paragraph from the report based on that thorough investigation, and which indicates the thoroughness of the investigation:

In conducting this examination it has been my earnest endeavor to collect all the evidence possible bearing on the case, and to put it in such a form as to enable the Department to come to a correct judgment.

That certainly was done. There will be found here a mass of testimony exceedingly voluminous. It would be unjustifiable to undertake to repeat it here, or any portion of it. But upon that this report of the War Department was made.

Now, we come to the report itself based upon the investigation of Colonel Saxton, who represented the War Department in the case. The War Department recommend, as has already been stated, the payment of $3,000. I am not going to stop now to discuss whether they overrate or underrate the damages sustained by this party. I am not here to discuss the question of damages, or to controvert the claim made by those representing this claimant on the floor of the House.

I only say that a reinvestigation of this case, although by a judicial tribunal, will not perhaps afford any more thorough opportunity to get at the facts than has already been had. I will submit one or two statements in regard to the merits of this case in order to justify the resistance which our committee is now making to a reference of the case to the Court of Claims. A proposition to refer a claim of this kind always impresses me favorably. I always feel that this House as a body does not constitute the safest tribunal for the investigation of judicial questions or the ascertainment of matters of fact upon which the law is to be applied. I know the difficulty of obtaining the attention of gentlemen representing other sections of the country and overburdened with other matters of importance to each individual claim as it comes up, and therefore I always feel willing to refer these cases to the Court of Claims wherever it can be safely done. I ought to say at this point that, under the Bowman act, committees can refer cases to the Court of Claims; this House may refer cases to the Court of Claims under the Bowman act; and so far as my observation and experience go our committees are very liberal in that respect. Many cases have been referred from the Committee on War Claims, and some of them are now being decided by the Court of Claims and being reported back to the committee. So that, so far as regards a reference of these cases to the Court of Claims, there is abundant opportunity for it and great liberality in that direction; but the Committee on War Claims did not consider this to be a proper case for reference at this stage.

In justification of the action of the committee, let me read from the report of Colonel Saxton to the War Department. Under the fourth proposition he says:

The evidence on this point as to the destruction of the property is very voluminous and very unsatisfactory. A large number of witnesses, including several ex-Army officers, testify to the destruction of the property, while others, also including ex-officers and soldiers, testify to the reverse. A charitable explanation of this discrepancy in the evidence is that men's memories are not always to be relied upon after a lapse of eighteen years.

I think he might very pertinently have added there that the weight of testimony often turns upon the opportunity that the witnesses have had to obtain knowledge of the facts to which they testify. The testimony of an Army officer who was in charge at the time, who occupied these grounds in the winter of 1861–'62, and who had abundant opportunity to know the extent of the damage done, if any damage was done, would be entitled to more weight as a witness in any tribunal than the testimony of a mere casual observer, having a more imperfect opportunity to know the facts. To illustrate this view, let me read a statement which appears in a report in regard to the testimony: November 28, 1881, Colonel Saxton forwards for filing with his report two affidavits made by Pascal Margry and John Baker, dated, respectively, October 28 and November 1, 1881. In these affidavits the affiants substantially testify that in January, 1862, they were members of Company D, Fifth California Infantry; that they went with their company to San Diego and were stationed there about ten months from January, 1862—covering the very period within which it is claimed this damage occurred.

They further state that when they arrived at that place there was an old wharf, in a dilapidated condition, near the buildings occupied by the troops, and that while they were there part of it fell down from natural decay and was carried out to sea by the tide. They further state that neither the wharf nor any part of it was destroyed by United States troops; that a quantity of wood was on hand, corded up and in the quartermaster's charge, when they came to the post, which wood was used by the troops as fuel, and that, moreover, a quantity of wood for the use of the garrison was cut on the island near San Diego and boated over by the troops for their use.

Now that is an illustration of the character of the testimony in this case, which abundantly justifies the statement of Colonel Saxton that, after full and liberal investigation as regards the rights of this claimant, it was found that there was a serious and irreconcilable conflict in the testimony in the case. Acting, doubtless, upon the well-known legal rule that a claim like this need not be established beyond a reasonable doubt, but that a mere preponderance of evidence in favor of the claim ought to prevail, not merely gave this claimant the benefit of the doubt, but found, upon the preponderance of evidence, that some damage had been sustained, and recommended $3,000 as the proper amount of compensation, and that amount is allowed by the Quartermaster and by the Secretary of War. I beg the attention of the committee to the fact that it is proposed that this case shall be heard in the Court of Claims on this same testimony. The claimant would hardly desire a reinvestigation of the case and the taking of the testimony in chief and on cross-examination according to the rules of the court to which it is to be sent. Doubtless, also, many of the witnesses are dead, some of them beyond the reach of the Government, many of them probably beyond the reach of this claimant; so that to get this case to the Court of Claims it is necessary to override the ordinary practice in referring

cases to that court, and to ask that this case shall be heard there upon this same testimony, with all its uncertainties, with all its doubts, with all its indistinctness, that was before the War Department and before the Committee on War Claims.

Now, I submit that that may be an exceedingly dangerous thing to the Government, or possibly it may be exceedingly dangerous to this claimant. It is a question of the thoroughness of the investigation. If our committee, or if this House, should, under the Bowman act, refer a case to the Court of Claims, that court will not consider the *ex parte* testimony that is to be found in the case; the court will not take up the case and base its decision upon an *ex parte* showing; but the case will be thoroughly prepared by the examination and cross-examination of witnesses in the way which has been found to be most effective in eliciting truth, in the interest of claimants as well as for the protection of the Government.

Mr. JOSEPH D. TAYLOR. I desire to ask the gentleman a question.

The CHAIRMAN. Does the gentleman from Ohio [Mr. GEDDES] yield for a question?

Mr. GEDDES. I do.

Mr. JOSEPH D. TAYLOR. Was this property in charge of any person? Was there anybody in possession of it and caring for it at the time?

Mr. GEDDES. No, sir; I believe not—though I am not certain, and I desire to be very careful in any statement that I make here. My friend from California [Mr. GLASCOCK], representing the claimant, will not state, I think, that the property was in possession of any one. It had been abandoned.

Mr. GLASCOCK. We deny that it had been abandoned.

Mr. GEDDES. They deny that; but the property was not in actual use, I believe, during the winter of 1861–'62.

Mr. GLASCOCK. It was in actual use.

Mr. JOSEPH D. TAYLOR. Is the franchise of any value?

Mr. GLASCOCK. Mr. Davis, the owner of the property, was not there at the time; he was somewhere in the northern part of the State, and all this transaction occurred in his absence. The franchise was still in Mr. Davis.

Mr. JOSEPH D. TAYLOR. My question was whether the franchise was of any value.

Mr. GLASCOCK. It was, as a matter of course. The testimony in the case shows that.

Mr. GEDDES. Let me say, as bearing upon the point raised by the gentleman from Ohio [Mr. JOSEPH D. TAYLOR], that, judging from what I have learned in regard to this case, at a particular time the franchise was perhaps of value to the claimant, but after the wharf went into decay and was no longer used, other parties built a wharf adjacent to it and this became comparatively worthless. And the claimant gives that as an additional reason why he did not return to his property and guard it.

I believe that I have said all that I feel called upon to say in vindication of the action of the Committee on War Claims. It is not asserted that there is any newly discovered evidence in the case or that any evidence not within the reach of the party when this matter was investigated has since been found and can be produced.

I am not compelled, therefore, to say that it would not be such evidence even then as would warrant opening up the case, for I have not heard that there is any claim of that kind. I have supposed that it is sought to readjudicate this case in the Court of Claims substantially upon the testimony taken by Colonel Saxton and submitted to the War Department, and if we assent to a reference of the case to the Court of Claims, it must certainly be because we conclude it is safer that such a tribunal should pass upon this claim than that it should be finally determined by us or by the War Department, or by such other tribunals as have had connection with it.

Mr. HISCOCK. I desire to ask whether the War Department has approved this claim.

Mr. GEDDES. Yes, sir.

Mr. GLASCOCK. The War Department has approved it to the extent of allowing $3,000 and interest.

Mr. GEDDES. Perhaps the earlier statements in this debate were not heard by the gentleman from New York; and I will say that this is a favorable report from the committee based upon the investigation of the War Department, and allowing the amount allowed by that Department.

Mr. GLASCOCK. But without the interest allowed by the Department.

Mr. GEDDES. Yes, sir; we allow no interest; that is never done here in any claim. Now, from the report of the committee, the gentlemen representing the interests of this claimant dissent, thinking that a larger amount should be allowed; and they now ask action on the substitute proposing to refer the case to the Court of Claims.

Mr. HISCOCK. I wish to ask a single question. In sending this case to the Court of Claims do you propose to send it there upon a different rule as to the measure of damage from that adopted by the War Department, or do you limit the Court of Claims to the amount found due by the War Department?

Mr. GLASCOCK. We propose that the court shall allow an amount corresponding with the injury actually done, if any.

Mr. HISCOCK. But a certain measure of damages was adopted in this case by the War Department in determining the amount which should be allowed.

Mr. GLASCOCK. We do not endeavor to put any limitation upon that court. Assuming it to be a competent tribunal, we simply say to the court——

Mr. GEDDES. I do not understand that the substitute proposes any new measure of damages. It simply refers the case to the Court of Claims that the amount of the damage may be ascertained.

Mr. HISCOCK. But there is a question in this case as to the measure of damages.

Mr. STORM. Yes, sir.

Mr. GEDDES. That is the sole question.

Mr. STORM. The War Department has adopted the rule that where lumber has been taken and used for fuel, the Department will not allow for it on the basis of lumber, but will only make compensation upon the basis of fuel. Of course this basis of estimation is admittedly incorrect and unjust. If the case were in the Court of Claims, I take it the court would not be bound by this practice of the Quartermaster's Department of only allowing for lumber as cordwood if it was consumed by the Army as fuel. If the case were in the Court of Claims, the court would have to do justice between the parties and allow the actual amount of damage.

Mr. HISCOCK. What would probably be the difference in the amount?

Mr. STORM. The gentleman can imagine what would be the difference between allowing for red cedar, as cord-wood at $4 a cord, and allowing the value as lumber sawed into planks.

Mr. HISCOCK. Has there been an investigation, so that this House can be apprised——

Mr. GEDDES. Oh, yes; but only in this way: it must be borne in mind that there is a serious conflict in the evidence, first, as to whether the Government did any damage——

Mr. GLASCOCK. That is admitted.

Mr. GEDDES. That is found by the report, based upon the preponderance of evidence, I admit. It does not appear in the testimony or in the report that the War Department made its estimate of damages on the theory suggested by my colleague on the committee [Mr. STORM]. Our understanding in the committee was that the Department adopted in this case the ordinary method of making their estimates for damages. I think that if gentlemen had an opportunity to examine the evidence in this case they would find that the War Department had no special rule upon which to make that estimate; that it made in this case a kind of liberal allowance based upon all the evidence in favor of a citizen against the Government, finding, first, that there was some damage, and then guessing as to the amount upon the basis of the proof, and saying, "We will give the claimant $3,000." That is all there is of it.

Mr. GLASCOCK rose.

Mr. SPRIGGS. What is the amount claimed?

Mr. GEDDES. The amount reported by the committee is $3,000, but I understand the gentleman representing it would take $20.

Mr. GLASCOCK. I know the gentleman from Ohio does not desire to misstate, and I therefore now ask to correct an error into which he has fallen. The wharf referred to by the gentleman from Ohio was not constructed, nor indeed the construction commenced, until after the work of demolition was begun on this wharf and it was entirely dismantled.

Mr. GEDDES. That is so.

Mr. GLASCOCK. I understood the gentleman to say, at that time they were taking in the lumber from the wharf and that there was not a wharf in good condition in San Diego.

Mr. GEDDES. I do not wish to be so understood.

Mr. GLASCOCK. The report of Colonel Saxton shows that the wharf at that time was in a good, serviceable condition.

Mr. RAY, of New Hampshire. Mr. Chairman, there seems to be no question that something should be paid to the claimant in this case. In the first place, the Secretary of War recommends that he be paid the sum of $3,000 with interest from the 1st day of February, 1862. Now, if we follow the recommendation of the Secretary of War the sum to be allowed the claimant is about $7,000 instead of the amount reported. In the Forty-seventh Congress a unanimous report from the War Claims Committee recommended the allowance of $20,000, and that only as a partial measure of relief. For some reason or other the present War Claims Committee go back not only upon the former report, but also upon the recommendation of Mr. Lincoln, the Secretary of War, allowing the interest, and recommend that only $3,000 be allowed as full compensation for the destruction of a large warehouse and wharf at San Diego, Cal., which more than thirty citizens in the vicinity, testifying under oath, have estimated to have been worth $60,000 and upward at or near the time they were destroyed.

Mr. HISCOCK. Is it not true that the expectation of the builders when they constructed this wharf was not realized and this wharf therefore was only valuable for the lumber that was in it?

Mr. RAY, of New Hampshire. Yet; it was valuable as a wharf.

Mr. HISCOCK. This city was laid out. There was no commerce there, no use for a wharf, and was only valuable for the lumber in it for fire-wood or to be transported somewhere else.

Mr. RAY, of New Hampshire. Not so. The property may have depreciated somewhat from decay.

Mr. HISCOCK. Is it not true that the wharf had gone into decay from non-use?

Mr. RAY, of New Hampshire. I do not undertake to represent that it may not have decayed to some extent, but the weight of the evidence makes it quite clear the property was worth much more than $3,000.

Mr. HISCOCK. It was not kept in repair because of the decay of the commerce of the town.

Mr. RAY, of New Hampshire. Probably the property had decayed somewhat. It was not in perfect repair, but that it had become of no value, that it had been abandoned as a piece of worthless property, no one pretends.

Now, then, I wish to call the attention of the committee, in reply to the question of the gentleman from New York [Mr. HISCOCK], to the finding made by the chief quartermaster, Colonel Saxton, detailed by the War Department to make the investigation under the act of March 3, 1881. He says that the testimony shows the property to have been worth from sixty to eighty thousand dollars when built and for some time thereafter, but that its value was less in 1861 and 1862 when destroyed. The difficulty with this case, like every other where the damages are unliquidated, is that no one can tell precisely how much ought to be allowed. It appears by an overwhelming weight of evidence that this property was at one time worth from sixty to eighty thousand dollars. Undoubtedly it was well worth the amount reported by the distinguished chairman of the Committee on War Claims in the Forty-seventh Congress [Mr. HOUK], namely, $20,000. Indeed, he may not have set the value of the property at the time of its destruction high enough. I can not tell. I do not believe any member of the House can tell.

Now the substitute proposed by my friend from California [Mr. GLASCOCK] is—what? To send the whole thing with the evidence, not the unsatisfactory evidence alluded to in the report made by Mr. Caldwell, of the Committee on War Claims in a former Congress, but the testimony since taken pursuant to the act of Congress passed March 3, 1881, already alluded to, whereby the War Department was authorized to take the testimony on both sides, to examine and cross-examine the witnesses, and under which Colonel Saxton acted. That testimony is of value now because it was taken in a quasi-judicial proceeding, and the record shows that some seventy-five or one hundred witnesses have given evidence bearing on this question. The findings of Colonel Saxton are all in favor of the claimant, that his title to the property was perfect, that he was a loyal citizen during the war.

But I wish to call the attention of the House, and particularly of my friend from New York [Mr. HISCOCK], to a most singular finding of the Chief Quartermaster in reference to the rule of damages adopted by him in estimating the value of the property when destroyed. The Secretary of War and the present Committee on War Claims seem to have fallen into the same error:

As a result of the investigation—

Colonel Saxton says—

I am of the opinion that the value of the lumber taken for fuel did not exceed $3,000 as material.

Now I think that is a most remarkable principle to adopt in determining the value of a man's warehouse or similar property taken by the Government. He simply appraised its value for a particular purpose only, namely, as so much wood or fuel, and not its value as a wharf and warehouse. Let me illustrate: The coat that I have on, although it may not be very good or very valuable, costing possibly not more than $2 a yard, answers my purpose very well. Still, I do not want anybody to take eight inches square out of the back of it and then propose to settle the damages by paying me at the rate of $2 a yard for the size of the hole. [Laughter.] That would not satisfy me at all. The trouble is, it spoils the coat. I think, therefore, that the chairman of the Committee on War Claims failed to realize the absurd principle involved in the recommendation made by the War Department and adopted by his committee in this case. The quartermaster who made the investigation tells us that the warehouse and wharf, as such, are destroyed, but for the purpose of fuel the material of which they were made is worth only $3,000, and therefore he recommends the payment of that sum only.

Mr. JOSEPH D. TAYLOR. Let me ask the gentleman if that wharf was standing there to-day reconstructed, as it then stood, whether it would be worth any more than the mere material of which it is built?

Mr. RAY, of New Hampshire. I do not know what it would be worth. I can not tell anything about it. That is exactly the trouble we all have in cases of this character. Therefore, my friend from California proposes by his substitute to send the matter to the Court of Claims for a final adjudication. We have six judges there whose business it is to investigate and decide upon just such a question as has arisen here. The Court of Claims can do this far more carefully and intelligently than Congress can. Look at this substitute bill for a moment. The Committee on War Claims fixes the amount of compensation for the damage done at $3,000. They ignore altogether the recommendation of the Secretary of War that interest should be allowed, which, if done, would just about double the amount.

I do not know what the claimant ought to have for the destruction of his property, but it is apparent to me he should receive something substantial, and by reason of the erroneous rule of damages recommended by Quartermaster Saxton and by the Committee on War Claims I am inclined to the opinion that the House ought to adopt the substitute as a more just and equitable measure than the committee's bill. The substitute provides that the claim shall be referred to the Court of Claims for adjudication. Jurisdiction is given to that court to ascertain the facts and render judgment for the actual value of the property which was destroyed, without interest. I recognize the doctrine that we can not pay interest ordinarily on these claims; but if we are to give this man only the fuel or firewood value of his buildings I think he should certainly have interest.

The substitute bill contains a provision that the court shall have the benefit of all the testimony taken under the act of March 3, 1881; that the same may be used by either party, together with such additional competent evidence as may be offered by either party, and further provides that the claimant shall begin suit within a year from the passage of the act. Now, sir, if the Court of Claims is to be of any value to Congress, it would seem to be in a matter of unliquidated damages, like the present case. How can any man justly say that Mr. Davis ought not to have more than $3,000? Perhaps he ought not to have even that sum; but from my examination of the case, from the fact that three committees of Congress have reported that something is due him, and from the further fact that the Secretary of War recommends the payment of $3,000 with interest from February 1, 1862, I assume that something is really and honestly due, and I would be much better satisfied to have the decision of a tribunal appointed to sit in judgment, between the citizen on the one hand and the Government on the other, and whose especial business it is to do equal and exact justice to both. It is almost impossible to investigate a claim of this character with that care and attention it ought to receive, and hence I hope the substitute will be adopted.

Mr. ROWELL. Mr. Speaker, I hope this House will not forget how this bill comes here for our consideration. The Forty-seventh Congress by enactment provided a forum in which this claim should be tried. They provided that the Secretary of War should investigate the facts connected with the claim of Mr. Davis, and report them to Congress. He did investigate the facts by his quartermaster; evidence was taken in accordance with rules in judicial proceedings; witnesses were examined; a large body of testimony was taken, and a report made in accordance therewith. The War Claims Committee have made a report confirming the action of the Secretary of War, and have provided in this bill the payment to this claimant of the amount found due by the Secretary of War.

The real question is whether we shall provide a forum, have that forum, the court we provide, determine the facts, and then ignore that determination and seek another forum.

The facts in this case, out of which this claim grows, are these: In 1851 Mr. Davis built a wharf at San Diego, in California, at a cost of some $60,000 or $80,000. Eleven years thereafter United States troops occupied that town. Mr. Davis in the mean time had become financially in trouble. He was not then staying in San Diego. He had left a custodian in possession of that wharf, and that custodian, as I recollect, had afterward died, so that at the time of the occupancy of this town by troops there was nobody in custody. Now, the question determined by the quartermaster was whether or not the troops had destroyed a wharf worth $60,000 or $80,000, or whether they had simply taken for wood the lumber of that wharf, which had already been substantially destroyed. One of the questions at issue was whether or not the worms which destroy the piles of wharfing on the Pacific coast had entered the harbor of San Diego. If they had, then by all the testimony the piling in ten years' time would have been utterly destroyed, eaten off; so that the wharf would have ceased to be of any value except for the lumber that was in it. Some witnesses insisted that these worms had not entered that harbor, and that the timber out of which the piles were made was of that kind of cedar that the worms would not work in, and that, therefore, ten years after the construction of the wharf it was just as good as when constructed. Other witnesses, and large numbers of them, testified that these worms had entered the harbor, that the piles had been eaten off and numbers of them had dropped into the water, and a portion of the wharf had fallen away, so that at the time the troops occupied San Diego one portion of it had been entirely swept away, and the other portion was simply standing there, not strong enough to be safe for wagons to go out upon it.

This was the conflict of the testimony, and this claimant claims on the one hand that a good wharf worth $60,000 had been destroyed by the troops. The report of the Quartermaster-General finds upon the other hand that no such destruction had taken place. Now, while I am not satisfied with the method of ascertaining the value of the property taken by the quartermaster—that is to say, reducing lumber or planking to firewood—yet because the tribunal to which Congress re-

ferred this claim so determined, I am in favor of sustaining that determination. In my judgment, upon all the evidence I believe that this wharf had become substantially destroyed; that the life of a wharf in that harbor was not over ten years; that one portion of it previous to 1861 had been washed away by a wave of the sea; that another portion of it had been destroyed when a vessel approached the dock, and that it was no longer serviceable for a wharf except that as it was the only one there such vessels as entered San Diego had to make use of it. In my judgment, under this evidence all the Government could be responsible for would be the value of the material taken, because I do not think that taking the planking off the wharf and taking such piles as had been eaten away for fuel would have caused the destruction of any other portion of the wharf.

I am opposed to having an act passed by this Congress providing a forum, and then when we have the decision of that court passing another act providing another forum. That is giving a claimant before Congress larger rights than claimants get in private life.

And I think there ought to be an end to this claim. The Secretary of War having ascertained upon all this evidence that $3,000 ought to be paid, I think we ought to confirm that decision, thereby carrying out the act passed by the Forty-seventh Congress.

It is very hard to ascertain whether there was that amount of lumber taken. Some of the officers stationed at that point insist upon it that there was not any lumber taken. They insist upon it and show details that the wood used for that post was obtained on an island near by. They insist that the lumber taken from that wharf was taken by citizens, and not by soldiers; and one witness at least testifies that he, by consent of the custodian of the wharf, took a large amount of the planking away for his own purposes for building and making fences before the occupancy by the United States troops. The surgeon in charge testifies that by his order these planks were taken for use in the hospital for walling up wells, &c. It appears, therefore, from the testimony that some lumber was taken. The Secretary of War estimates the value at $3,000. The committee report a bill to pay the claimant $3,000; and, to make an end of this claim, I am in favor of carrying out the recommendation of the Secretary of War.

Mr. JOSEPH D. TAYLOR. Does not the Secretary of War recommend the payment of interest from a certain date?

Mr. ROWELL. He does.

Mr. MCMILLIN. Let us have a vote.

The CHAIRMAN. The first question is on agreeing to the substitute offered by the gentleman from California [Mr. GLASCOCK].

The question being taken, there were—ayes 35, noes 57.

So (further count not being called for) the substitute was not agreed to.

Mr. GLASCOCK. I offer an amendment which I send to the desk, and which I understand the committee will not oppose.

The Clerk read as follows:

Strike out "$3,000" and insert "$6,000;" so that it will read: "That the sum of $6,000 be, and the same is hereby, appropriated."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JOHN C. HERNDON.

Mr. MCMILLIN. Mr. Chairman, I have been requested to ask the committee to pass over informally a number of bills in order to take up House bill 2158, which was reached on last Friday. I ask unanimous consent that that may be done.

There being no objection, the committee proceeded to consider the bill (H. R. 2158) for the benefit of John C. Herndon.

The Clerk read the bill, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay to John C. Herndon, late of Mason County, now of Louisville, Ky., out of any moneys in the Treasury not otherwise appropriated, the sum of $1,785, in full compensation for 105,000 pounds of hay furnished, under verbal contract, to Capt. D. W. McClung, assistant quartermaster, United States volunteers, for the use of the Government of the United States, in March, 1865, and which was swept away by a flood in the Ohio River and lost in consequence of the failure of the Government to remove said hay after due notice had been given to its authorized agents so to do.

Mr. MCMILLIN. Mr. Chairman, I move that this bill be laid aside to be reported favorably to the House.

Mr. O'HARA. I call for the reading of the report.

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

This is a claim for 105,000 pounds of hay sold to Capt. D. W. McClung, assistant quartermaster, United States volunteers, for the use of the United States Government, in March, 1865, at an agreed price of $1.70 per hundred, amounting to $1,785.

It was sold under a verbal contract, to be delivered on the banks of the Ohio River, at any point between Cincinnati, Ohio, and Maysville, Ky., and the same was delivered about March 3, accordingly, near Moscow, Ohio, on the banks of the river, in order for shipment, and the Government officers were duly notified thereof. Captain McClung gave written orders for boats to take it away on the part of the Government, but it was not done because no boats came except those which were already too full, and none others could be got by the officers of the Army.

When the river opened and the thaw begun the river was rising, and Mr. Herndon, fearing that it might rise so high as to reach the hay, proposed to Captain McClung that he would remove it from the banks, but was not permitted to do so, the captain saying that he had made arrangements for its removal with the captain of the boat, and that it would be removed at once: that by reason of this statement the hay was allowed to remain on the bank of the river where it had been placed in delivery. The captain of the boat failed to stop, and a rapid rise of the river occurred during the nights of March 14 and 15, 1865, and the hay was swept away and entirely lost. Mr. Herndon claimed the agreed price of the hay, to wit, $1,785.

The claim was duly presented to the proper department, fully investigated, and disallowed. The facts, as above stated, are proved beyond doubt, and appear conceded in official documents, and are proven to the satisfaction of the Government and the committee; and the disallowance of the claim was based on two grounds: First, that the hay not having been inspected by the Government, as was usual and according to an invariable rule, it could not be said to have been accepted and the title to have passed; second, that the purchase by the quartermaster in an emergency (in case of which it would be authorized by law) should have been filed with the accounts of the disbursement, and the order of the commanding officer directing the purchase, or a certified copy thereof, and also a statement of the particular facts and circumstances constituting the emergency; and it not appearing that any such order was made, or that the statement required was filed, or that any such emergency existed, the purchase and sale were null and void.

It is, however, said by Henry C. Hodges, assistant quartermaster United States Army, that there may be a case in equity. It seems to me that there was either a manifest error in this decision or that it is a case where the Government on every principle of justice should pay this claim.

It was the duty of the Government officers to have the hay inspected within a reasonable time after the delivery and notice of the same, and either to accept or reject it; that if this was not done it was the fault of the Government, and they would be bound by the purchase; that the purchasing officer being duly notified, and not having rejected it, and besides, having told the vendor not to remove it when he proposed to do it in anticipation of the threatened rise of the river, saying that he had made arrangements for its being taken by the boats that night, was an acceptance, and either passed the title, or the Government became responsible, and took the risk of its remaining, and must bear the loss.

As to the second objection, it appears that Captain McClung did propose to do what was required, but concluded not to do it, lest he should render himself personally liable. He was the proper purchasing officer. His papers were destroyed, and he did not furnish items. His failure to do his duty in rendering proper accounts, &c., can not operate to the prejudice of the vendor and throw the loss on him, for Mr. Herndon had no power to compel the officer to do his duty, and was not responsible for his failure to do subsequently what he was required to do. It were not a thing to be done before the hay was accepted and taken as essential to the completion and the sale. It does not appear that there were no proper orders, and if it must be assumed or presumed, that the assistant quartermaster was acting rightfully. But in any event the committee are of the opinion that the Government should pay for this hay as a matter of justice, if not that of law; and they accordingly recommend that the bill do pass.

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

Mr. WARNER, of Ohio. One important element in this case is the question of the delivery of this property, and I desire to ask my colleague [Mr. GEDDES] whether this property was delivered at the place where under the contract it was required to be delivered.

Mr. GEDDES. It was. There is no question about that. The only point made in regard to the delivery is that the hay had not been accepted by the officers of the Government. Although it was delivered at the point at which it was agreed to be delivered, and was there ready for inspection, the claim of the Department, when payment was demanded, was that the hay had not been inspected and therefore had not been technically delivered.

Mr. WARNER, of Ohio. In that case the inspection, of course, was the duty of the officers of the Government, and if there was any fault in the matter it was the fault of the Government.

Mr. GEDDES. Yes. I ought to state further in that connection that this claimant did all he possibly could in the matter. He was there insisting that the hay should be removed; he was there guarding it even after it had reached its destination; and when he saw that there was to be a rise of the river, and that this property would be in danger, he insisted that he should be allowed to move it out of danger at his own expense; but the Government officer refused to allow him to do so, saying that a boat would be along and that the hay would be removed. The consequence was that the boat did not come until after the water had come; the water came first and took off the property.

Mr. WARNER, of Ohio. Then the fault was on the part of the Government?

Mr. GEDDES. Yes.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ROBERT TALLY.

The next business on the Private Calendar was the bill (H. R. 4685) for the relief of Robert Tally, colored.

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 Robert Tally, colored, of Memphis, Tenn., the sum of $325, out of any money in the Treasury not otherwise appropriated, for two horses taken from him by the Army of the United States during the late war.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MRS. ELIZA E. HEBERT.

The next business on the Private Calendar was the bill (H. R. 684) for the relief of Mrs. Eliza E. Hebert.

The CHAIRMAN. There is an adverse report from the Committee on War Claims upon this bill.

Mr. ELLIS. There is also a minority report, and if the matter were to be determined by numbers that would be the majority report, because in point of fact it has the support of the majority of the members who actually considered the case in committee.

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

Mr. STORM. I move that the bill reported by the minority be laid aside to be reported to the House with the recommendation that it do pass.

Mr. HOLMAN. I call for the reading of both reports.

The CHAIRMAN. The gentleman from Indiana [Mr. HOLMAN] calls for the reading of both reports. The majority report will be read first.

The report (by Mr. JONES, of Wisconsin) was read, as follows:

This claim grows out of this alleged taking of property by the United States troops in Louisiana, under command of General Halbert E. Paine, in 1863. The amount now demanded is $21,090. The claim has been before each Congress since the Forty-third, and has generally been favorably reported, although there has been one or two adverse reports. It is now unnecessary to recite at length the facts and proofs as they may be found in the numerous printed reports. (See Senate report 527, Forty-third Congress; report No. 309, Forty-fourth Congress; report No. 216, Forty-fifth Congress; report No. 936, Forty-sixth Congress; report No. 1683, Forty-seventh Congress.

Your committee have examined the various reports and have carefully examined all of the testimony in the case. The claimant has supplemented her proofs from time to time by adding new affidavits to meet the objections which have arisen, and there is now a large amount of evidence bearing upon the alleged taking of the property and the loyalty of the claimant. If it were not for the features in the case alluded to further on in the report, your committee might feel bound to say that the preponderance of evidence is with the claimant on these issues. But in the view which we take it becomes unnecessary to decide whether the witnesses for the claimant or those for the Government are the more credible. The claimant is herself a witness in her own behalf, and on numerous occasions has given in writing her sworn statements as to the grounds of her claim.

In claims of this character your committee understand it to be their duty to scrutinize very carefully the statements of claimants made under oath, and that in cases where those statements are evidently fraudulent or probably incorrect, the entire claim should be regarded with great suspicion. The reasons for applying such a rule are obvious. The testimony is usually *ex parte*. No opportunity is given those passing upon the weight of the testimony to see the witnesses or to cross-examine them. Again these claims are often ancient before they make their appearance in public. In this instance the claimant rested about ten years before she made it known to the authorities that she claimed the Government was indebted to her in the sum of many thousands of dollars. After such a lapse of time it is necessarily very difficult for the Government to obtain proofs, and it is no injustice to hold such dilatory claimants to the rule of stating, at least with reasonable accuracy, the facts constituting their claims.

Your committee now call attention to the two accounts which claimant has filed, as showing the items of her claim. The first was filed before the Southern Claims Commission January 24, 1873, and was as follows:

8,000 barrels corn, at $1.50	$12,000
500 cords wood, at $6	3,000
100 chickens, at $1	100
200 turkeys, $2	400
30 hogs, $10	300
5 milch cows, $100	500
8 oxen, $50	400
5 horses, $160	800
4 mules, $125	500
Unknown quantity of lumber, consisting of hogsheads, staves, pickets, and posts, estimated	5,000
Total	23,000

The other was the claim subsequently filed before Congress, and is as follows:

8,000 barrels corn, at $2.50	$20,000
1,500 cords wood, at $4.46⅔	7,000
1 lot lumber, consisting of staves, headings, pickets, &c.	10,000
1 pair carriage horses	1,000
3 riding horses	900
4 mules, at $300	1,200
30 hogs, at $30	900
5 choice milch cows	375
20 head beeves	500
1 lot poultry	100
Fencing on plantation	6,000
	47,975

We do not overlook the fact that it is now argued that, in making the first claim, Mrs. Hebert was only seeking one-half of the property taken, on the theory that the other half belonged to her husband, and that before making the second statement she had obtained an assignment from her husband, from whom she had been divorced.

If it should be conceded that the assignment from Jules Hebert to the claimant was made at the time she now alleges, and that she has never made any misstatements or fraudulent concealment respecting it (a matter about which there have been differences of opinion in former committees), still the fact remains that the two statements are so utterly unlike that they can not possibly be reconciled to each other.

The corn is alleged to be worth $1.50 per barrel in the first statement and $2.50 in the second. In the first, 500 cords of wood are charged for, and alleged to be worth $6 per cord; in the second statement we are told there were 1,500 cords of wood, worth $4.66⅔ per cord. In the second statement is a charge for fencing of $6,000, which seems to have been forgotten in the first. It is unnecessary to call attention in greater detail to the remarkable discrepancies which appear throughout the accounts. The discrepancies are too glaring to be explained by the mere statements that claimant had forgotten, or that she was unaccustomed to business transactions.

It is, perhaps, not necessary to place our judgment against the validity of the claim upon the ground that the claimant has made fraudulent statements, within the meaning of that statute which forbids the payment of any claim wherein the claimant has knowingly made a false statement thereof. It is enough to say that we find those statements upon which the whole claim rests so utterly unreliable that we can not make them the basis of a favorable decision.

But there is another objection to the allowance of this demand to claimant, which seems to your committee insuperable. The legal title to the land and to the personal property was in Jules Hebert, and not in the claimant. It appears from the evidence that she had no separate estate. Your committee can not adopt the theory of Mrs. Hebert that one-half of the property in question belonged to her as the wife of Jules Hebert.

It appears, from recitals in claimant's brief, that judgment of divorce was entered November 10, 1871, between the said parties, but that no alimony was given, and the judgment did not decree any division of the estate or property of Jules Hebert, but this subject was left open for the future determination of the court.

Your committee are of the opinion that the claimant had no authority or right to prosecute this claim, except such as might have been conferred by the assignment made in 1874 by Jules Hebert to herself. But assignments of this character are clearly and expressly made null and void by section 3477 of the Revised Statutes. We are asked to hold that this statute only applies to assignments made to claim agents. But that would be ingrafting an exception upon the statute which is not mentioned therein. It is to be presumed, so long as this section remains upon the statute-books, that there is good reason for its existence, and your committee have no inclination to treat the statute as of no effect.

The committee, therefore, report adversely and recommend that the petition do lie on the table.

The Clerk also read the minority report, as follows:

Mr. TULLY, from the Committee on War Claims, submitted the following as the views of the minority:

The adverse report of this committee upon this claim is based not upon the demerits of the claim, but on the following grounds:

First. That the statements, made by the claimant in her petition, presented to the Southern Claims Commission, and the statement of the account presented to Congress are irreconcilable and so conflicting that they can not be made the basis of a favorable decision.

Second. That the legal title to the land and the personal property was in Jules J. Hebert, her husband, and not in the claimant, and that she had no separate estate, and the committee refuse to adopt the theory that one-half of the personal property belonged to her as the wife of Jules J. Hebert.

As to the first objection, we can not adopt the views of the committee as expressed in the adverse report.

We do not think that the discrepancies in the two accounts, namely, the one presented to the Southern Claims Commission and the one presented to Congress after she had procured the assignment from her husband, are such as to convict this claimant of an intention to commit or perpetrate a fraud upon the Government, and therefore to discredit her. On the contrary, we think that they are such as might have occurred, under the circumstances of this case, with persons far more conversant with the business affairs of life than this claimant can be supposed to have been.

But it is not necessary to rely upon the statement of the claimant in this case. The taking of the property and its use by the Army are conclusively proved by the officers in command of troops, who ordered the seizure, and the quantity, kind, and value are all satisfactorily proven by parties who had personal knowledge of the same.

The loyalty of the claimant and her husband is also proven beyond controversy, and we are clearly of opinion that upon the merits of the case the claimant ought to be paid for the property which the Government has had the benefit of.

As to the second ground of objection named in the adverse report, we have to say that we do not think this case comes within the spirit of section 3477 of the Revised Statutes. That act was evidently passed to prevent persons who were well advised as to the status of a claim from taking advantage of the ignorance of the claimant and purchasing it for much less than the real value, as known to the would-be purchaser, and this is not only our view, but it has been so held by Congress in several instances; in fact, this same question has been passed upon in this case at six different times by different committees in the House and Senate, and the bill passed the House once after a full discussion of this question.

Again, in the case of the claim of Dodd, Brown & Co., assignees, reported by Mr. HOAR, of the Committee on Claims in the Senate, in the second session of the Forty-sixth Congress, report No. 714, the question was directly made, and the assignment was allowed, and the claim paid to the assignees, amounting to some $40,000. But it is not necessary to get rid of this statute to establish the right of this claimant to prosecute this claim before Congress or elsewhere; and to show that we are right and that the grounds taken in the adverse report are wrong upon this question, we quote substantially from the laws of Louisiana bearing directly upon this question, as follows:

"Every marriage contracted in the State of Louisiana superinduces a right of partnership, or community of acquets or gains, if there be no stipulation to the contrary. (See Voorhies, Rev. Civil Code, page 440, art. 2399.)

"This partnership or community consists of the profits of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife, and of the estates which they acquire during the marriage, either by donation made jointly to them both or by purchase, or in any other similar way, even though the purchase be only in the name of one of the two, and not of both." (See Voorhies, Rev. Civil Code, page 441, art. 2402.)

Again:

"The effects which compose the partnership or community of gains are divided into two equal portions between the husband and the wife, or between their heirs, at the dissolution of the marriage; and it is the same with respect to profits arising from the effects which both husband and wife brought reciprocally in marriage, and which are administered by the husband or by husband and wife conjointly, although what has been brought in marriage by either the husband or the wife be more considerable than what has been brought by the other, or even although one of the two did not bring anything at all." (See same authority as above, page 442, art. 2406.)

And further:

"The fruits hanging by the roots on the land belonging separately to either the husband or the wife at the time of the dissolution of the marriage are equally divided between the husband and the wife or their heirs; it 'is the same with respect to the young of cattle yet in gestation.'" (See same authority, article 2407, same page as above.)

Again:

"The woman separated from bed and board, or absolutely divorced, has no need in any case of the authorization of her husband, as this separation or dissolution of the marriage carries with it not only a separation of property, but a disolution of acquets and gains." (See same code, page 65, article 123, and page 72, article 159.

Under these laws it is difficult to see how it can properly be said that the claimant had no authority or right to prosecute this claim except such as might have been conferred by the assignment made in 1874, and that that assignment was void.

It seems to us that she clearly had the absolute right to half of this property when she presented her petition to the Southern Claims Commission in 1873, by the laws of her State, and that she subsequently acquired the right to the other half by the assignment from her husband, from whom she was divorced in 1871, and had the clerk of the Southern Claims Commission understood the laws of the State of Louisiana on this subject he would not have sent her away to procure an assignment from her husband, telling her that she had no right to prosecute the claim without it, even for one-half.

Under his direction, however, she returned home, and not until a year had elapsed did she succeed in procuring the assignment, and then the time for filing claims before the Southern Claims Commission had expired, and she came to Congress, and, of course, asked for the whole amount of the claim.

Since that time there has been no less than six favorable reports from committees of both Houses of Congress upon this claim, varying in amounts from $21,090 to $31,700.

It seems to us, from the evidence before us, that there can be no question about the merits of this claim or the loyalty of the claimant, the only question being as to the amount, and that asked for in the bill is the least amount for which the case was ever reported by the several committees that have personally examined the claim, to wit, the sum of $21,090, and that sum we think she ought to be paid.

P. B. TULLY.
L. H. WELLER.
WM. P. KELLOGG.

From facts and information acquired since the majority report was made, I agree to the above report.

JNO. B. STORM.

I concur in the above.

WM. F. ROGERS.

Mr. STORM. Mr. Speaker, I feel no personal interest in this case, and am conscious of no feeling whatever growing out of my connection with the minority report. The claimant is to me an entire stranger. In the first consideration of this case I agreed with the majority of the committee in the report that was first read, but after that report was printed I discovered that we had made a mistake, and subsequently I was led to join the minority of the committee in making the report last read.

There was not much difference in the committee, I think, as to the fact that the Government took the property as claimed in this case; but there was a question about the legal capacity of the claimant, Mrs. Hebert, to prosecute this claim, in view of her disability under the married woman's law of the State of Louisiana. But learning subsequently that we were clearly mistaken with regard to the law of that State upon this subject, a number of us reconsidered our assent to the majority report and joined in making the minority report.

Permit me to say, Mr. Chairman, that although this is styled the report of the minority, yet it has the support of a majority of the members who considered the case. There were nine members of the committee present during the consideration, and five of them have now signed the minority report.

Mr. Chairman, the report of the majority is based largely upon the fact that there is a discrepancy between the statement made by this claimant when her claim was originally presented to the Southern Claims Commission and her claim as she subsequently made it to Congress. This discrepancy is relied upon as evidence of fraud; and the majority of the committee say it ought to work the defeat of the entire claim. But when we consider the unfortunate condition of the claimant in this case, living at the time the property was taken far away from the place where it was taken—living in the city of Saint Louis while this property was taken from a plantation in a parish in Louisiana—and when we consider also that these claims are usually made through the assistance of attorneys or claim agents, it would certainly seem to be unjust to scrutinize the claim presented by this woman under the circumstances of this case by the same rules which we would apply to cases where the parties were in a situation to know all the circumstances surrounding their claim and had the means of obtaining all the information necessary upon which to base a full and complete claim.

This lady when she made her claim before the Southern Claims Commission did not know the whole amount of the property which had been taken by the Government; and afterward, when she made her claim to Congress, this subsequent claim embraced property which had been omitted in the former claim, because the fact that such property was taken had not come to her knowledge when the first claim was presented.

It is a rule of law that a plaintiff may recover a smaller sum than that claimed in his declaration, but not a larger sum; and we do not propose now to pay this claim to the extent of the amount set forth in the second claim. Indeed the amount which the minority of the committee have recommended to be paid—and the amount proposed to be paid by the bill which the minority ask the House to adopt—is smaller than the amount named by this lady either in her claim before the Southern Claims Commission or her claim as presented to Congress. It is less by several thousand dollars than the smaller claim, and much less than one-half of the larger claim. I am sure no gentleman of this House will say that if this claimant did lose property to the amount of $21,900 she ought to be deprived of all compensation because she at one time filed a statement claiming a much larger sum.

The Government of the United States, having taken this property and rendered no vouchers for it, having taken it when the claimant was a thousand miles away from the place where the property was taken, ought not now to say that because the claimant is obliged to rely upon the testimony of some colored people who lived upon the plantation and such Army officers as may recollect the transactions and give their statements or affidavits in support of the claim therefore this testimony ought to be regarded with great suspicion. Colonel Allcot, who was present, testifies to the taking of the property, says that some 4,000 Government troops were in the immediate neighborhood of this plantation, and states that it was his intention to issue the proper vouchers for the property taken, but owing to a sudden order for the troops to move from that neighborhood there was not time to make out the vouchers.

This claimant, now some twenty or twenty-three years after the occurrence of the facts, presents the best testimony she can, and all that she can. Some twenty or twenty-five witnesses have testified to their recollection of the quantity of property—the corn, the wood, the poultry, the fencing, &c., that were taken and used by the Army. I take it that it ought to be considered conclusive of the fact that the Government did take her property and use it to the extent of $21,900; and indeed I understand the majority goes to that length. It states:

Your committee have examined the various reports and have carefully examined all of the testimony in the case. The claimant has supplemented her proofs from time to time by adding new affidavits to meet the objections which have arisen, and there is now a large amount of evidence bearing upon the alleged taking of the property and the loyalty of the claimant.

And further on in the report it is stated that—

If it were not for the features alluded to further on in the report your committee might feel bound to say that the preponderance of evidence is with the claimant on these issues.

I may say there is no evidence here against this claim. There is not a counter-statement or affidavit anywhere in the case contradicting this testimony. It is only that general way of carping over it, of picking at it, because the statements are more or less indefinite—not specific, gathered some time after the property was taken, and not satisfactory; that it is *ex parte*, and so on. I believe the evidence which comes into this House to support claims, as a rule, is *ex parte*, and, of necessity, must be such.

Then what is the ground by which the majority of the committee seek to avoid paying this claim for the amount of property they admit in their report was really taken?

Mr. HOLMAN. Before the gentleman answers the question which he now asks, I would like to inquire of him whether or not this claim was presented to the Southern Claims Commission, and, if so, what explanation is given of that matter, if any.

Mr. STORM. I will say in answer to the gentleman from Indiana [Mr. HOLMAN] that this claim was presented to the Southern Claims Commission. It is in the testimony that the clerk of the Southern Claims Commission stated that the claimant, Mrs. Hebert, being at that time a married woman, had no standing in that court and could not make the claim herself; that she must go and get an assignment of the interest or right of her husband before she could have any standing in that court. She testifies that she proceeded to do so, but before she was able to get that assignment from her husband that commission itself expired by limitation of time and was no longer in existence as a tribunal before which she could present her claim. But I will discuss that subject further on, because the question involves further discussion under the second head of this case.

I think at the time when Mrs. Hebert presented this claim to the Southern Claims Commission her husband was living. Whether she was at that time divorced from him or not by decree of the court of Louisiana I am not sure. I believe the decree of divorce had been issued from the court in Louisiana, but that no decree of alimony had been made in the case. Believing the clerk of the Court of Claims was properly advising her, she went to get that which I will argue it was not necessary at all for her to have. For we claim under the law of Louisiana such authorization or assignment from the husband was unnecessary. In fact, as I understand the report of the majority, they say they are of the opinion that the claimant had no authority or right to prosecute this claim, except on the ground of the assignment in 1874 by Jules J. Hebert to herself. He was her husband.

It is upon that mistaken assumption of the law that the majority of the committee have reached the conclusion they have. I desire now to call the attention of the committee to what the law of Louisiana is on that subject. It was read by the Clerk, but I desire again to call the attention of the committee to it, because upon the proper understanding of that law you will have to decide the case. The law of Louisiana differs from the laws of many States, and especially from the laws of my own State, where the right of a married woman to acquire an estate in the joint earnings of husband and wife during coverture is very limited. Indeed, married women are not permitted under the laws of Pennsylvania to have any estate in their earnings; but that is not the law in Louisiana:

Every marriage contracted in the State of Louisiana superinduces a right of partnership, or community of acquets or gains, if there be no stipulation to the contrary. (See Voorhies, Rev. Civil Code, page 440, art. 2399.)

This partnership or community consists of the profits of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife and of the estates which they acquire during the marriage, either by donation made jointly to them both or by purchase, or in any other similar way, even though the purchase be only in the name of one of the two and not of both. (See Voorhies, Rev. Civil Code, page 441, art. 2402.)

Again:

The woman separated from bed and board, or absolutely divorced, has no need in any case of the authorization of her husband, as this separation or dissolution of the marriage carries with it not only a separation of property, but a dissolution of acquets and gains. (See same Code, page 65, art. 123, and page 72, art. 159.)

So in this case there was no necessity for the authorization; there was no necessity for the assignment to her, because the divorce *ipso facto* restored her to all the rights of what I would call in my State a *feme sole* trader.

That being the case, and discovering with many others that I was mistaken as to the laws of Louisiana governing the right of the claimant in this case, we have done what we could to prevent any wrong to

this claimant by submitting a minority report, putting ourselves right not only upon the facts, but the law applicable to those facts.

Since then the husband of this claimant has died, and all possible claims against the estate, as I am informed by gentlemen learned in the law in that State who sit on either side of me, would be barred. There can be no one to question the right of this claimant in this case not only to have a standing in court, were such a tribunal in existence before which she could appear to assert her right to one-half of the property, but she has the right to claim the whole because of the good and valid assignment of her husband either before or subsequent to the divorce, and by virtue of the laws of the State of Louisiana, by which she acquires a good title to all of the property claimed in the bill. So that she has a complete legal right in the case, and no one, except it be the creditors of the estate of the husband—who do not appear, and who have no standing here as I understand it, for they would be barred by the statute of limitation—would have any right as against her in the premises. She is here the sole claimant and owner of this claim and is the only person entitled to full compensation for the property taken or destroyed.

As far as the loyalty of this claimant is concerned it is fully proved by competent testimony and will not be questioned in the debate, whatever else may be said about her. And I submit that after some twenty-two years' waiting, having all the personal property on a large plantation utterly destroyed and she reduced to want and penury—when she has been before this Congress these many years seeking a hearing and redress, it is our duty to listen patiently to her appeal and give full consideration to the facts presented. She has had already two favorable reports from the Claims Committee of the Senate. She has had two favorable reports from committees of this House as against one adverse report—I think in one case made by General Bragg, of Wisconsin; but five times out of six the reports have been favorable to the allowance of this claim, and this bill once passed the House.

Mr. ELLIS. Twice.

Mr. STORM. Yes, I recollect, twice passed the House; and I do think, therefore, that there ought to be an end to this contest and delay, and that this woman who has been dancing attendance in the halls of this House for twenty years ought now to receive a just compensation, which I assert here is equitably due her. I hope the relief will be granted.

Mr. JONES, of Wisconsin. Mr. Chairman, it is only fair to the Government of the United States that there should be some short presentation of the other side of this case. In the Committee on War Claims this case was referred to me as a subcommittee. I gave it as careful and as attentive consideration as I could, and it seems to me, after a full investigation, that there are various grounds on which it ought not to be allowed.

I call the attention of the committee in the first place to the fact that ten years slipped away before the claimant found out that she had any claim whatever, of either $20,000 or $40,000, against the Government, and before it was presented to any court or to any Congress, in fact before it was heard of in any shape. Where her husband was I know not. It is only fair to presume that if he had a claim of $20,000 or $47,000 against the Government he would have presented his claim at an earlier period. But finally in 1873 the claim was first heard of. It was then presented to the Southern Claims Commission. Not succeeding in that court, the claimant comes to this last resort of claimants, the Congress of the United States, and presents her claim here, and we are called on to examine the testimony and pass judgment upon it. Ten years had passed away. The Government had had no opportunity to gather testimony to defend against this claim. Under such circumstances it is only fair to the Government of the United States that we should look with careful scrutiny upon the *ex parte* evidence thus produced.

It seemed only fair that the plaintiff should have presented a statement of the facts on which she bases her claim such as would bear upon its face at least a semblance of accuracy and truthfulness. But instead of that the claimant has presented statements of so remarkable a character that I wish to call them to your attention. I may say, briefly, that the testimony she presents is highly contradictory. There are witnesses swearing that this claimant lost a considerable amount of property. But General Halbert E. Paine, then in command of the troops at that point, and who ought to know something of the merits of the claim, has a statement in the papers on file in the case in which he says that it was his custom to give vouchers for all goods and supplies used for the troops at that time. He states that he has no recollection whatever of any such dealings as are claimed in this particular case. The claimant in this case, instead of being a thousand miles away, as suggested by the gentleman from Pennsylvania [Mr. STORM], testifies herself to having several times had communication with General Paine. She claims that he knew the facts concerning the amount of the claim and the character of the property taken. He says that he did not.

He says that there were ample supplies for his troops and that there was not any reason why this large amount of property should have been taken under these circumstances. And not only that, but the Government of the United States appointed a special agent to go and examine into the facts and merits of the claim. That special agent went down there and examined witnesses, looked carefully over the ground, and gave as his opinion that the whole plantation, if in cultivation, could not have produced or supported the amount of property the claimant said had been taken. He states further that in the year in question only a very small portion of the plantation was in cultivation. His statement is to the effect that the cribs on the plantation would not have contained half the corn claimed to have been taken. In fact, I should infer from his statement that her claim is one tissue of exaggeration, if not of absolute falsehood. I should infer from it that she charges as much for fencing, for example, as the whole plantation was worth.

Now we come to the testimony of the claimant herself in support of her claim. She has made two or three sworn statements. She came first to the Southern Claims Commission and made her statement, stating her claim in the first instance against the Government at $23,000. Years afterward she makes another sworn statement before Congress. She doubtless then assumed that the old statement was forgotten. I say she assumed that, for she must have known that the two statements could not have looked each other in the face. That each would have straightway stared the other out of countenance. There are the most glaring misstatements, discrepancies, and differences between them; such discrepancies as can not possibly be reconciled.

In the first statement, for example, she swears that she lost five hundred cords of wood, and puts a price upon it; in the second statement these five hundred cords of wood had grown to 1,500. Both statements were sworn to by the claimant. Which will you accept?

In the one statement she charges for poultry to the amount of $500; in the other statement she had forgotten her long-lost chickens and turkeys or the most of them; at least she charges only $100. In one statement she charges for eight oxen; in the next statement those eight oxen had propagated their kind with such success that they had become twenty beeves. [Laughter.] In one statement she charges lumber to the amount of $5,000 against the Government; in the other she thinks the Government can afford to double the amount, and she swears that it was worth $10,000. Then we come to another item, a trifling item, a mere bagatelle, which she had forgotten entirely in the first statement—only $6,000 for fencing. In one statement she omits this; in the other she claims it.

When our committee came to look over those statements and pass upon them they seemed to us such statements as no jury in Christendom ought to be asked to accept. It seemed to us that those statements must be reckless, and, to put it mildly, utterly unreliable, and we had to disregard them. The specious pretext is now made that in the first claim she was simply demanding the value of one-half of the property taken, and that before the second claim an assignment had been made. These two statements quarrel too bitterly to be reconciled by any such theory. In the one the claim for lumber is three times what it is in the other; not one-half. The claim for mules, in one statement, is $1,200; in the other, $500; not one-half. In the one statement hogs are worth $30 each; in the other, $10; ten is not one-half of thirty. In the one statement she charges for twenty beeves and in the other for eight oxen. There is no arithmetic or process of logic which can make eight oxen the half of twenty beeves or $100 worth of poultry the half of $600. The two statements are utterly inconsistent. They can not be reconciled with each other.

We do not need therefore to discuss the law of the State of Louisiana. I say, with all deference however, I think the gentleman from Pennsylvania [Mr. STORM] is mistaken as to that law. I do not profess to be learned in the civil law of Louisiana, but my impression is that the civil law of Louisiana does not give to a wife on her marriage one-half of all her husband's estate.

Mr. HUNT rose.

Mr. JONES, of Wisconsin. I will tell you what I think it does do. I think it gives the wife one-half of the gains, one-half of the accumulations subsequent to marriage. The gentleman from Louisiana takes his seat. I think he will not dissent from that proposition. He concedes that I am right in that view. Now, search this evidence and you will find no evidence whatever which shows that this property was accumulated after the marriage of these parties.

Mr. HUNT. Will the gentleman allow me to correct him there? He is not exactly right. The law of Louisiana presupposes a partnership in the absence of a contract between husband and wife, which they call a community of acquets and gains.

Mr. JONES, of Wisconsin. Do you claim that on a marriage the real estate belonging to the husband at once becomes in half the property of the wife?

Mr. HUNT. No, sir; nobody ever claimed that.

Mr. ELLIS. But the presumption is that in the absence of a contract this community exists.

Mr. JONES, of Wisconsin. As to property subsequently acquired?

Mr. ELLIS. Yes; and this property was acquired long after the marriage.

Mr. JONES, of Wisconsin. As to that you are mistaken.

Mr. ELLIS. I am not mistaken.

Mr. JONES, of Wisconsin. If I remember rightly this property belonged to Hebert before the marriage.

Mr. STORM. The gentleman from Wisconsin claims these rights

apply only to acquisitions subsequent to the marriage. How does he explain this in the code?

The effects which compose the partnership or community of gains are divided into two equal portions between the husband and the wife, or between their heirs, at the dissolution of the marriage; and it is the same with respect to profits arising from the effects which both husband and wife brought reciprocally in marriage—

Now mark—

and which are administered by the husband, or by husband and wife conjointly, although what has been brought in marriage by either the husband or the wife be more considerable than what has been brought by the other, or even although one of the two did not bring anything at all.

That must refer to property acquired before they were married.

Mr. JONES, of Wisconsin. I have before me Kent's Commentaries, and I think it will bear out my statement. I have not time to stop to discuss this question at length. I do not regard it as a material question in this case. And the gentlemen from Louisiana do not seem to materially differ from me on this subject.

I leave these two statements of the claimant to any man who will weigh evidence, and let him say if he could with any degree of certainty find what property was taken by this Government from this woman. The statements are so utterly contradictory, it is so impossible to reconcile them, that it is useless to quibble about the laws of Louisiana on that subject. I discredit these statements, or, to be more accurate, they discredit themselves.

Mr. HUNT. The gentleman will not question that property which is the separate property of one of the spouses may *post* marriage produce fruits, which fruits by virtue of contract will form part of the community of acquets and gains?

Mr. JONES, of Wisconsin. I do not dispute that. I think the gentleman from Louisiana [Mr. HUNT] and myself more nearly agree than I do with the gentleman from Pennsylvania [Mr. STORM]. I think the gentleman from Louisiana [Mr. HUNT] is right in his view of the law of his State. My claim is that the evidence shows this property not to have been the accumulations made after marriage, but the separate property of Jules Hebert. This farm belonged to him before marriage. What right had the wife to compensation for this fencing, for instance?

Now, let me refer for a moment to this assignment. The gentlemen who are advocating this claim assert that a plain statute of our Government ought to be disregarded. They argue in their report that when our statute prescribes that certain assignments are null and void, Congress should exercise its discretion and treat them as valid. If these assignments are invalid under the statute of the United States, then this Congress has no right to disregard the law. If we disregard it in this case we will be asked to ignore it in others. We should repeal it or respect it.

I have tried, Mr. Chairman, to be brief in presenting the objections to this claim. I will say also that neither in my report nor in my remarks have I been severe upon this claimant. There has been another report filed previously in another Congress which was far more severe in its strictures upon these two remarkable statements which have been made by this claimant.

MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment the bill (H. R. 5639) extending the jurisdiction of justices of the peace in Wyoming Territory.

Also, that the Senate had passed bills of the following titles; in which concurrence was requested:

A bill (S. 2470) providing for the establishment of a port of entry at Mount Desert ferry, in the town of Hancock, in the State of Maine; and

A bill (S. 2436) to authorize the President to appoint commissioners to the Belgium international exhibition at Antwerp, and for other purposes.

Also, that the Senate had agreed to the amendment of the House to the bill (S. 12) for the relief of Elizabeth Carson.

The message further announced that the Senate insisted upon its amendments disagreed to by the House of Representatives to the bill (H. R. 7874) making additional appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon; and further, that it had appointed Mr. HALE, Mr. ALLISON, and Mr. BECK as conferees on the part of the Senate.

MRS. ELIZA E. HEBERT.

The Committee of the Whole House on the Private Calendar resumed its session.

Mr. ELLIS. Mr. Chairman, for twelve years, in summer's heat and winter's snows, this claimant has knocked at the doors of Congress, the great ultimate court for everybody who has a claim against this Government, for justice. This claim was presented to the Forty-third Congress, was reported favorably, and passed this House almost unanimously.

A MEMBER. Under a suspension of the rules.

Mr. ELLIS. It was reported in the Forty-fourth Congress by the present distinguished Senator from Michigan, then a member of this House [Mr. CONGER], and we all know that if there was any one who was prejudiced against claims of this class it was he. It was easier, of course, for a camel to pass through the eye of a needle than for a claim to pass favorably the rigid inspection of OMAR D. CONGER; yet he reported this claim favorably and was active in favor of its passage in the Forty-fourth Congress.

In the Forty-fifth Congress it was again reported favorably, but it died, as so many of our bills die, on the Calendar. In the Forty-sixth Congress it was again reported favorably, and finally it fell into the hands of a member from Wisconsin, General Bragg, and was by him reported to the House in a characteristic way—adversely. Passed twice by the House, five times favorably reported by committees of this House, twice passed in the Senate, it comes to us with the indorsement of committees and of Congresses. I take it, Mr. Chairman, that all we want to do is justice.

Let us see, then, in the first place, if this lady is the proper claimant. This House will require that it be proven and shown, first, that she is the proper claimant. In the second place, the House will demand that it be shown that she and her husband were loyal to the Government of the United States. In the third place, it will be demanded that it shall appear that this property was taken for the use of the troops of the United States. If these three propositions be maintained, then there is not a man in this House who will vote againt this claim.

The first question is, Is this the proper claimant? My friend from Louisiana [Mr. HUNT], long a learned professor in our law institution there, has correctly stated the law. The law of Louisiana presupposes, from the very act of marriage, in the absence of contract, a community of acquets and gains. It is established by virtue of the marriage. The husband may bring in separate property; it remains his separate property. The wife may bring in separate property; it remains her separate property. But whatever is acquired after the marriage by the common economy, the effort of both, enters into the community of acquets and gains, in which the wife is entitled to share equally with the husband.

A MEMBER. The testimony utterly fails to show that this property was acquired subsequent to their marriage.

Mr. ELLIS. Mr. Chairman, it was not real property that was taken; it was personal property; it was poultry, animals, stock, cords of wood—property of the kind that is accumulated in a year or in two years or sometimes in a month. It was not real property, it was personal property that was taken, and the burden is upon the Government to show that it was the separate property of the husband; for the presumption of the Louisiana law is that it was acquired after marriage and belonged to the community of acquets.

Now, what about the assignment? Sir, the provision of the code is textual, that the husband may give his wife anything that he could give to a stranger. The exception is that he can not give her anything in fraud of creditors. He may assign to her during the marriage not in fraud of creditors; but if he is out of debt and there is no fraud upon any creditor, then the husband may give to the wife whatever he could give to anybody else. So in that view of the case the assignment is legal.

But the truth is that the community was dissolved prior to the presentation of this claim by divorce in 1871; and whenever the community of acquets and gains is dissolved, whether by death, marriage, or divorce, that moment the rights of the parties are fixed and at that very moment the wife becomes entitled to one-half of the property. So that, whether you take it in view of the assignment, or whether you take it in view of the divorce, or whether you take it in view of the recent demise of the late husband, the rights of this claimant have become fixed, and she is entitled to one-half the claim. But the committee have guarded the bill so as to require her to produce the receipt of the late husband or of his legal representatives, and to take the amount in full and final payment of the entire claim. She is the guardian of their children, some of whom are minors. She is the guardian of the children, and as such is constituted, by the law of Louisiana, the administratrix of the estate. So that in every view of this case she is the proper party in court.

But the gentleman says that there was an assignment in fraud or in violation of law. Why, Mr. Chairman, the provision of the United States statute which prohibits the assignment of claims is made for this purpose only, to prevent parties who are well informed as to the value of claims from taking advantage of the ignorance of the parties in interest and buying up valuable claims for a mere song. That is the intendment of the statute.

Mr. Chairman, I think I have succeeded in showing the House beyond peradventure of a doubt that the proper party is in court, and that there has been no violation of any statute of the United States in the assignment in this case. Why, sir, what led to that assignment? Coming here a woman, ignorant of the law, she went to the Commissioners of Southern Claims and was informed that she was not the proper party to present the claim. Ignorant of the law at her home, ignorant of the law here, she took the word of the clerk, who was himself an ignoramus in the civil law, in the common law, and in the law of justice, and she went off to obey what she thought was the *ex ca-*

thedra judgment of the commissioners of Southern claims to get the assignment, and her husband gave it. Therefore she is the proper party in court.

In the second place, was she loyal to the Government of the United States? Why, Mr. Speaker, there can be no question of that fact. She and her husband remained loyal to the United States throughout all that long and dismal period of the civil war. Her home and her outbuildings were the hospitals and the home of Union soldiers; she herself was the nurse of Union soldiers. Her house was the headquarters of Federal officers. General Banks testifies to this; General Halbert E. Paine testifies to it; Captain Allcot testifies to it; Governor Wiltz testifies to it; Mr. KELLOGG, now a member of this House, who was then down in Louisiana, has testified to it. Ay, out of the lips of a hundred witnesses her loyalty and the loyalty of her husband to the Government of the United States have been perfectly established. I take it, then, that my friend from Wisconsin [Mr. JONES] will not controvert the second point in the controversy.

This lady, then, is the proper party in court, and she was loyal to the Government of the United States. It remains but to see whether this property was taken. Here is the testimony. My friend from Wisconsin certainly has not read General Paine's testimony recently. He says General Paine does not know anything about this matter. Now let us see whether he does or not. General Paine, now a well-known lawyer of this city, was in command of the troops who were encamped upon the plantation of the claimant. Of course the general in command of the troops was not supposed to know minutely or particularly what was or what was not impressed for the service of the troops; but here is his own statement:

DISTRICT OF COLUMBIA:

Halbert E. Paine, having been duly sworn, on his said oath deposes and says, that on the 7th day of February, 1863, the Second Brigade, Third Division, Nineteenth Army Corps, arrived at Indian Village, on Bayou Plaquemine, in the State of Louisiana, under his command, and remained there until the 22d of the same month; that on the 8th of that month he detailed Captain Craig—

The gentleman from Wisconsin says there were plenty of provisions there, plenty of supplies; that there was no need of impressing anything. Here is what the general in command says, and there is a difference between his statement and that of my friend from Wisconsin on this point—

On the 8th of that month he detailed Captain Craig, of the Fourth Wisconsin Regiment, and Allcot, of the One hundred and thirty-third New York Regiment, to seize necessary mules, horses, carts, wagons, forage, wood, and boats for the quartermaster's department, and sugar, beef, and pork for commissary department of his command.

If the statement of my friend from Wisconsin is true, that there were ample supplies there and no need of impressing any, upon what reason was this order of General Paine based?

That he required them to give receipts in a prescribed form for all property so taken and to turn the same over to Lieutenants Wooster and Brevorts, brigade quartermaster and commissary; that he required said Wooster and Brevorts to take up the property so turned over to them on their returns and to dispose of it according to law. That he required Captains Craig and Allcot to inquire and report concerning the loyalty of all persons whose property they should seize, and to avoid as far as they could the seizure of any property of loyal persons. That under this order so issued said officers, with the assistance of non-commissioned officers and privates detailed for that duty, made numerous seizures of property, which was used by affiant's said command. That affiant has no particular recollection as to the amount of the several kinds of property seized as aforesaid. And affiant further says that he stationed a detachment of troops at Plaquemine, on the Mississippi River, and another at a point on the Bayou Plaquemine, between Indian Village and Plaquemine, which points were mentioned, as affiant believes, until his command left that part of the country on the 22d of February. That he remembers Mr. and Mrs. Hebert, whom he saw at their residence on the road between Indian Village and Plaquemine. That he supposes his troops, of course, used the wood which they found most convenient for fuel.

The troops were encamped on the plantation of the claimant, and this wood was piled up on the bank of the bayou—

and that which was seized also by the officers detailed as aforesaid to seize wood and other property. That he has no personal knowledge of the taking of any such. That he has no doubt that all the forage, fuel, corn, and wood used by his command, which consisted of the Fourth Wisconsin, Eighth New Hampshire, One hundred and thirty-third New York, One hundred and seventy-fifth New York Regiments, and a battery of artillery of the regular Army, during the time they remained at Indian Village and Plaquemine, and at the intermediate post mentioned, were taken from the neighborhood.

Now, let us see why General Paine's order to these officers to give receipts to parties whose property they impressed was not obeyed. I turn to the testimony of one of the seizing officers, Captain Allcot, of New York. I invite attention to the testimony of the impressing officer himself:

CITY AND COUNTY OF NEW YORK,
State of New York:

John H. Allcot, of said city and State, being duly sworn, doth depose and say as follows: That he resides at No. 102 East One hundred and fourth street, in said city; that in the year 1863 he was captain in the One hundred and thirty-third Regiment New York Volunteers, and in the brigade commanded by General H. E. Paine, while in camp at Indian Village, Iberville Parish, Louisiana, near the plantation and house of Mr. and Mrs. Jules J. Hebert; that he was detailed as forage-master of the brigade at the time, his command comprising one captain besides himself and, as near as he can now recollect, some twenty enlisted men; that he visited the plantation of Mr. and Mrs. Hebert, and found thereon large quantities of cordwood, lumber, corn, and other articles; said wood, lumber, corn, &c., was seized by him and his command stationed at Indian Village. Further, said wood, corn, lumber, &c., were taken to camp in quantities as required, with the understanding that a receipt for the same should be given before the troops left. Said receipt was not given in consequence of the brigade being suddenly ordered away.

That is the reason this lady does not come here with the receipt of the impressing officer in her possession.

Further, that the place where the property was seized was known as Jules J. Hebert's plantation. That the stock, comprising cattle, sheep, mules, and hogs, were taken from the plantation of Mr. John A. Darden, and were claimed by Mrs. Hebert as her property while on our way to the camp; the cows were given up to her, but the remainder were refused and driven to camp. Further, that it has been represented to him that a certain Jules O. Neraux (who was at that time about 16 years of age), has made a statement to the effect that quantities of flour, pork, sugar, coffee, &c., were taken from the commissary stores by General Paine and his officers and given to Mr. and Mrs. Hebert in exchange for articles taken from them. Said statement deponent knows to be untrue, as no such transaction took place, or could have taken place, without his knowledge.

Thus we have from the lips of the impressing officer himself the story of this impressment of supplies for the service of the troops of the United States.

Then in another affidavit this impressing officer gives the following testimony:

STATE OF NEW YORK,
City and County of New York, ss:

John H. Allcot, of said city and county, being duly sworn, deposes and says, that in the year 1863 he was captain in the One hundred and thirty-third Regiment New York Volunteers, and was in the brigade commanded by Col. H. E. Paine while in camp at Indian Village, near the plantation and home of Mr. and Mrs. J. J. Hebert, and that as well as he can now recollect there were quite a number of troops encamped there in the spring of 1863, probably about 4,000, and that these troops were there for some considerable time, and while there cordwood and lumber were taken from their plantation and premises, Mr. and Mrs. Hebert's, by the Army, for the use of the Army, and the cordwood was used by the Army for fuel, and was necessary, and the lumber was used by the Army for flooring in the tents, the ground being very damp from overflow, and was necessary, and the said wood and lumber was so taken and used by officers and soldiers with the knowledge and authority of the officers, and was necessary at the time. The wood was used in the camp-fires to cook and wash by and was indispensable, as neither officers or soldiers could do without some fire. And further, that from all he could learn Mr. J. J. Hebert was always a loyal man and devoted to the cause of the Union from the beginning of the war.

Now, gentlemen of the committee, this testimony of the impressing officer is upborne by twenty-five or thirty witnesses, some of them black, some of them white, some of them soldiers, some of them civilians, who in one concurrent strain testify that the plantation and home of this loyal woman were devastated as only troops can devastate a place. Poultry, hogs, horses, mules, wood, lumber, were all taken with the knowledge and authority of the Federal officers, some by the direct order of the officer in command, for the use of the Army—taken from a loyal person. Then by what right under the law does any man say that this claim shall not be paid?

But my friend here, for whose ability and character I have so high a respect, declares that he can not support this bill because there is a discrepancy in the two statements presented.

Now let us see. These statements do conflict. But how? She presented her first claim to the Southern Claims Commission. Bear in mind that she was a lady, that she was unused to business matters, that she made out to the best of her knowledge and belief a true satement and fixed the prices thereto, that she was not a merchant, she was not in business, she was not a dealer in produce, poultry, cordwood, or anything of that sort, and was not supposed to know, and could not be supposed to know, the correct value of these things. She got some of her ideas from the state of affairs which existed in the South during the war when a cord of wood was worth $30 or $40, when a man would give all he had for a turkey and almost bankrupt his very soul for a chicken—she got some of these ideas from the war. That was in her first statement, but in her second statement these things are all moderated. They are cut down. The original claim, when these extravagant estimates were made, was in 1873 for $47,000, but it has been trimmed down, and the claim presented to-day, and which we believe to be just, is for $21,000.

I think, without detaining the committee any further, I have shown, first, that she is the proper party in court; in the second place, she was loyal to the union of the States, and in the third place the property was seized. I trust the committee will proceed at the proper time to do justice to this party. I reserve the balance of my time.

Mr. JONES, of Wisconsin. The gentleman from Louisiana thinks that I have made some mistake as to the letter of General Paine, and I will send to the Clerk's desk, to have read, his statement, so that the House may judge for itself.

Mr. ELLIS, I have read it.

Mr. JONES, of Wisconsin. Let the Clerk read it.

The Clerk read as follows:

WASHINGTON, D. C., *January* 28, 1880.

DEAR SIR: Your favor inquiring respecting an alleged seizure of quartermaster's and commissary's stores by my order in Iberville Parish, Louisiana, during the war (the property of Mr. or Mrs. Hebert), was duly received.

I have on several occasions answered the same inquiry, addressed to me by committees of Congress and by agents of the Southern Claims Commission, and perhaps of other tribunals; and in answering have been able, availing myself of my order-books, to give more precise information than I shall be able to give now, without any memoranda to refresh my recollection.

During the winter of 1862-'63 I was sent from Baton Rouge with my brigade (then the Second Brigade, Third Division, Nineteenth Army Corps), a squadron of cavalry, and one or two light batteries, to a place called Indian Village, on the Bayou Plaquemine, about nine miles distant from the village of Plaquemine, at

which the bayou makes its exit from the Mississippi River. I was sent to observe a force of the enemy then encamped at Rosedale, on the Bayou Grossetete, not far from Indian Village, and easily accessible from that point.

I established my headquarters at Indian Village, but also established posts at the village of Plaquemine and at a point about half-way between Plaquemine and Indian Village.

One day I was returning from an inspection of these posts, accompanied by your friend George W. Carter, then a captain in the Fourth Wisconsin Regiment, and at a point not far distant from this middle post was accosted by a gentleman at the road-side, apparently in feeble health, who said that his wife, who he said was sitting on the porch of his house, would be glad to see me. I alighted and went with him to the house, which was but a few feet from the road-side, where he introduced me to a lady whom I suppose to have been Mrs. Hebert, respecting the seizure of whose property you inquire. I think Captain Carter alighted also and heard our conversation, but I am not sure on this point. This lady said to me that her husband was sick and suffering for want of wheat flour, that the soldiers had taken her poultry, and that it would be a great favor to her if I would furnish her some flour. On my arrival in camp I sent her a barrel of flour. This was the first and last I ever heard of this lady, until I saw many years afterward in the city of Washington a lady whom I understand to be, but did not recognize as, the lady whom I saw that day.

Now I have no personal knowledge whether any property belonging to Mr. or Mrs. Hebert was or was not taken by my troops, but the facts which I am about to state will enable you to judge as well as I can as to the probabilities on this subject. Our supplies furnished by the Government at that time were abundant and excellent. A steamboat transported them to our camps. Immediately on my arrival at Indian Village I detailed a party, consisting of several commissioned officers and a considerable number of enlisted men (one of the officers being Colonel Craig, the last commander of the Fourth Wisconsin Regiment), whose duty it was, as defined in the order making the detail, to make seizures of corn, sugar, molasses, forage, beef, mules, and other supplies of which the country was then full, and to give to the owners of all property seized written receipts therefor. The party so detailed satisfactorily performed their duty, and no complaint ever reached me that they made any seizure without giving the voucher as my order required.

In view of the abundant supplies furnished by the Government and the large quantity seized by this party, I can imagine no temptation for the soldiers to incur the trouble of making seizures themselves of any of these articles except poultry.

I think that Colonel Craig is now in the mining region of Michigan, and that, if you desire it, I could procure his address and that of the officers who were associated with him in this business, and that from them you may be able to obtain information which is more definite and tangible than any I am able to give.

Regretting that my memoranda are not at hand to enable me to give you a more satisfactory answer to your inquiry,

I am, yours, truly,

H. E. PAINE.

Hon. E. S. BRAGG, M. C.,
House of Representatives.

Mr. ELLIS. May I inquire what is the date of that letter?

Mr. JONES, of Wisconsin. January 28, 1880.

Mr. ELLIS. Seven years before General Paine made the affidavit I read from, when his memory was better.

Mr. JONES, of Wisconsin. The affidavit does not state anything differently.

Mr. ELLIS. The affidavit states that he ordered the property to be taken, and the report of the officers shows that they went and took it. There is the issue, and I must ask again, in my own time, to show what there is in it.

Mr. JONES, of Wisconsin. You are mistaken, I think.

Mr. ELLIS. No; I am not mistaken. Let me read it:

DISTRICT OF COLUMBIA:

Halbert E. Paine, having been duly sworn, on his said oath deposes and says, that on the 7th day of February, 1863, the Second Brigade, Third Division, Nineteenth Army Corps, arrived at Indian Village, on Bayou Plaquemine, in the State of Louisiana, under his command, and remained there until the 22d of the same month; that on the 8th of that month he detailed Captain Craig, of the Fourth Wisconsin Regiment, and Allcot, of the One hundred and thirty-third New York Regiment, to seize necessary mules, horses, carts, wagons, forage, wood, and boats for the quartermaster's department, and sugar, beef, and pork for the commissary department of his command; that he required them to give receipts in a prescribed form for all property so taken and to turn the same over to Lieutenants Wooster and Brevorts, brigade quartermaster and commissary; that he required said Wooster and Brevorts to take up the property so turned over to them on their returns and to dispose of it according to law.

That was General Paine's order, and Captain Allcot's statement, which I have read, shows he took the property. If that paper be sent to me I will recur to it again.

Mr. STORM. The reporters have taken it.

Mr. ELLIS. He ordered the property to be taken, and the officers say that they took Mrs. Hebert's property.

The CHAIRMAN. The bill is reported from the committee with an adverse recommendation.

Mr. ELLIS. I move that the adverse report be non-concurred in.

The motion was agreed to.

The question was taken on ordering the bill to be laid aside to be reported to the House with a favorable recommendation.

The House divided; and there were—ayes 54, nays 17.

Mr. THOMAS. No quorum.

The CHAIRMAN. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. THOMAS. I withdraw the demand for tellers.

Mr. BREWER, of New York. I renew the demand.

The CHAIRMAN. The Chair will appoint tellers.

Mr. BREWER, of New York, and Mr. ELLIS were appointed tellers.

The committee again divided; and the tellers reported—ayes 138, noes 27.

So the bill was laid aside to be reported to the House with the recommendation that it do pass.

ORDER OF BUSINESS.

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 to the House with various recommendations.

PAPERS ON FILE IN THE STATE DEPARTMENT.

Mr. HITT, by unanimous consent, introduced a joint resolution (H. Res. 315) relative to certain papers in the State Department; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, indefinite leave of absence was granted to Mr. MILLER, of Texas.

ORDER OF BUSINESS.

The SPEAKER. The first bill reported from the Committee of the Whole House on the Private Calendar is a bill coming over from last Friday.

Mr. MCMILLIN. Mr. Speaker, upon that bill the yeas and nays were ordered. I suggest that by consent, as within about five minutes the House will take its usual Friday recess, we pass that bill over informally and take up the bills reported by the committee to-day, to which there is no objection, and which may be passed before the recess.

Mr. VALENTINE. Will the gentleman allow me a moment?

Mr. MCMILLIN. I wish to state that I have no interest in the matter except to further the business of the House.

Mr. VALENTINE. I ask the gentleman to allow me to make a brief statement in reference to a bill which I hold in my hand.

Mr. MCMILLIN. I have no objection to the gentleman making a statement.

Mr. VALENTINE. I have a bill here upon which I desire immediate action. It is a very important measure, and I am satisfied a brief statement will convince gentlemen of the propriety of its adoption.

This bill if passed will relieve the Private Calendar of more bills than have been taken from it during the present session of Congress, although it is general in its nature. It is a bill for the purpose of extending the jurisdiction to the Secretary of the Treasury to issue certified copies of lost checks.

Mr. STORM. Regular order!

Mr. VALENTINE. I hope the gentleman will not call for the regular order.

The SPEAKER. The regular order is the call of the roll on the adoption of the amendment reported from the Committee of the Whole House on last Friday. On that amendment it will be remembered the yeas and nays were ordered.

Mr. BAYNE. I ask unanimous consent that inasmuch as it is within a very few minutes of the recess, the previous question be considered as ordered and then let it go over to come up as unfinished business to-morrow.

The SPEAKER. The question is on the adoption of the amendment, upon which the yeas and nays have been ordered.

Mr. BAYNE. I ask unanimous consent that the previous question be considered as ordered on the bill and amendments, and then I will accept the proposition of the gentleman from Tennessee and let it go over.

Mr. MCMILLIN. It will be too late for the gentleman to accept the proposition in a moment, the time having about arrived for the recess. [Cries of "Regular order!"]

The SPEAKER. The regular order is the call of the roll. The Clerk will call the roll.

Mr. BAYNE. I hope my request will be submitted to the House.

Mr. STORM. I withdraw the demand for the regular order.

The SPEAKER. The gentleman from Pennsylvania requests that the previous question may be considered as ordered upon the adoption of the amendment reported from the Committee of the Whole House on the Private Calendar and upon ordering the bill to be engrossed and read a third time and also upon its passage, for unless that is done it will not come up as unfinished business except on Friday.

Mr. WARNER, of Ohio. And if that is done will it come up to-morrow?

The SPEAKER. It will.

Mr. WARNER, of Ohio. What bill is that?

The SPEAKER. It is the Bigley bill—the bill for the relief of Nicholas Bigley, coming over from last Friday. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HOLMAN. I hope the bill will be read.

Mr. BAYNE. I hope the gentleman from Indiana will not insist on having the bill read now, but will consent to the request I made.

Mr. WARNER, of Ohio. Let the vote be taken upon it on Friday next.

The SPEAKER. Objection being made, the regular order is the

question on the adoption of the amendment to this bill, and upon that the yeas and nays have been ordered. The Clerk will proceed to call the roll.

Mr. HEWITT, of Alabama. It only lacks a minute and a half of the time for recess. I move that the House do now adjourn. [Cries of "No!" "No!"]

The question was taken; and on a division there were—ayes 34, noes 61.

So the motion was not agreed to.

Mr. VALENTINE. I make the point of order that the hour has now arrived when under a previous order of the House we must take a recess.

The SPEAKER. The gentleman from Tennessee [Mr. MCMILLIN] will preside as Speaker *pro tempore* at the evening session.

The hour having now arrived when by order of the House a recess is to be taken, the Chair declares the House in recess until 8 o'clock.

EVENING SESSION.

The recess having expired, the House reassembled at 8 o'clock p. m., Mr. MCMILLIN in the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The Clerk will read the order under which the session is held 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. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the Private Calendar for the consideration of business under the order just read.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the Private Calendar, Mr. STOCKSLAGER in the chair.

Mr. MATSON. I ask unanimous consent that the business of this evening may begin, on page 45 of the Calendar, with the case of David T. Dudley. There are some cases preceding it on the Calendar which have been disputed. I ask that these be passed over informally.

There was no objection.

DAVID T. DUDLEY.

The Clerk read the bill (H. R. 6965) granting a pension to David T. Dudley, 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 T. Dudley, late a private in Company C, Fourth Regiment Michigan Volunteers.

Mr. HEWITT, of Alabama. I ask that the report be read, and to save time I ask now that in each case after the reading of the bill the report be read.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6965) granting a pension to David T. Dudley, submit the following report:

We find that this soldier enlisted in Company C, Fourth Michigan Volunteers, June 20, 1861, and was discharged June 13, 1864. He was taken prisoner at the battle of Gettysburg, July 2, 1863, and was confined at Richmond until August 29, when he was paroled. He claims to have contracted rheumatism and diarrhea while a prisoner of war. Two of his comrades, S. Morse and W. J. Munroe, testify that he was sound and well up to the time of his capture; that when returned to his command he was sent to the hospital to be treated for rheumatism and diarrhea. The hospital records show that he was treated for intermittent fever, which is not inconsistent with the testimony of the comrades above referred to.

Orderly Sergeant F. G. Halstead testifies:

"He was taken prisoner with me while in line of duty; was well while on the march to prison, and was stricken down with the rheumatism about the last of July, 1863, and was very bad off from the first, and grew worse, until he was unable to help himself. That I did take care of him the most of the time until his release, which I think was in August, 1863. This disease was contracted while in Belle Isle, Virginia, a prisoner of war, taken in the battle of Gettysburg, July 3, 1863."

He further says his knowledge of the above facts is obtained from the following source, namely:

"That I was with him most of the time during his service in our company, and having the care of him while sick on Belle Isle. That I saw him in 1865, and he was suffering from the same disease."

November 28, 1881, Dr. M. M. Butler testifies that he has been claimant's family physician since 1872, and that he has been and still is suffering with rheumatism and diarrhea.

July 20, 1881, the examining surgeon at Plattsmouth, Nebr., certifies that he finds the right leg smaller than the other, measuring two inches less in circumference. That he finds his disability from rheumatism to be one-half, his disability from diarrhea nothing. The case was rejected in the Pension Office on the ground "that there was no record of alleged disease," &c.

Your committee, after a careful examination of the papers in the case, find that he has clearly proven that he was taken prisoner at Gettysburg; that he contracted rheumatism and diarrhea while confined at Belle Isle, and that it has continued ever since, and therefore recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SARAH TYLER.

The next business on the Private Calendar was the bill (H. R. 4055) granting a pension to Sarah Tyler.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized to place the name of Sarah Tyler, dependent mother of William Tyler, deceased, late of Company B, Fifty-second Indiana Volunteer Infantry, to date from January 1, 1863, on the pension-roll, subject to the restrictions and limitations of the pension laws.

The committee recommend the following amendment:

In line 6, strike out the words "to date from January 1, 1863," and insert in lieu thereof "on the pension-roll."

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4055) granting a pension to Sarah Tyler, submit the following report:

We find that Sarah Tyler was the mother of William Tyler, who enlisted in Company B, Fifty-second Regiment Indiana Volunteers, December 26, 1861. The Adjutant-General's report says: "Frozen to death near Fort Pillow, Tennessee, December 31, 1863."

Claimant seems to have been unable to satisfy the Pension Department that she was dependent on her son at the time of his death. The evidence shows that Allen Tyler, the husband of claimant, was 75 years old at the time of his death in 1883, and for past sixteen years has been unable to work, and the aged couple have been supported by the charity of their neighbors. The claimant is 64 years old, feeble, and penniless. The affidavits of six of her neighbors, whose good character is certified to by the postmaster, are offered to substantiate the foregoing statements. The evidence is entirely satisfactory. The case is a very strong one, and your committee without hesitation recommend the passage of the bill with amendment striking out the words "to date from January 1, 1863," and inserting in lieu thereof the words "on the pension-roll."

The amendment was adopted.

Mr. HEWITT, of Alabama. Does this bill put the applicant on the pension-roll subject to the provisions and limitations of the pension laws?

Mr. MATSON. Yes, sir.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JEREMIAH P. SWARTZELL.

The next business on the Private Calender was the bill (H. R. 7026) granting a pension to Jeremiah P. Swartzell.

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 Jeremiah P. Swatzell, late first sergeant of Company I, Seventeenth Regiment Kentucky Volunteer Cavalry.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7026) granting a pension to Jeremiah P. Swatzell, submit the following report:

Your committee find that this man was enrolled and was taken into actual service September 20, 1864, though not mustered until April 9, 1865, in Company I, Seventeenth Kentucky Cavalry. That he served faithfully as first sergeant of his company until October 4, 1865, though his discharge is dated September 20, 1865. On the 8th of October, four days after his discharge reached him, he was taken down with a severe attack of rheumatism and disease of the liver, confining him to his home for nearly six months and from which he has never recovered. J. W. Freeman, Dr. N. S. Johnson, J. T. Clark, R. R. Morgan, and Martha J. Hunt all testify that they knew claimant intimately before and at time of enlistment, and that he was a sound, able-bodied man. Charles E. Van Pelt, captain of Company I, Seventeenth Kentucky Cavalry, testifies:

"Claimant was a faithful soldier, and stout and able-bodied in every particular during his service; and that if he was disabled immediately after discharge on account of rheumatism, it was certainly the result of or caused by his service, and that his habits were correct and temperate."

Several witnesses testify as to his severe sickness, commencing October 8 and continuing until the next spring, and also as to his condition until 1869. Dr. W. W. Woodring testifies to treatment from 1871 to 1881 for chronic hepatitis, and that he has been frequently prostrated, and for the last three years of the time he has been compelled to abandon his occupation as a carpenter. Robert L. Brooking and J. W. Duston testify to the same effect from 1874 to 1881. Six or eight other witnesses testify as to his condition during the years from 1865 to 1881. Dr. B. F. Mastaman, examining surgeon at Independence, Kans., reports in 1882:

"I find him suffering from chronic rheumatism, affecting the right side, but more especially the right shoulder, hip, and knee; I find slight enlargement of the knee-joint; at times he suffers from this trouble very severely. He also suffers from chronic hepatitis; there is enlargement of the liver, and well-marked tenderness. At times he is confined to his bed for several days. He is unable to perform any manual labor."

The case was rejected in the Pension Office for the reason that the sickness did not manifest itself until after claimant had left the service. But it seems very improbable to suppose that the severe sickness that prostrated him four days after his discharge did not originate in the service. 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.

WILLIAM H. KINMAN.

The next business on the Private Calendar was the bill (H. R. 7177) granting a pension to William H. Kinman.

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 restrictions and limitations of the pension laws, the name of William H. Kinman, formerly of Company F, Thirty-fourth Ohio Volunteers.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7177) granting a pension to William H. Kinman, submit the following report:

This soldier enlisted July 25, 1861, in Company F, Thirty-fourth Regiment of Ohio Volunteers, and was discharged March 27, 1862, for disability. March 3, 1876, application was made for a pension on the ground that at Barboursville, W. Va., he contracted lung fever on or about November 1, which resulted in disease of the lungs. The application was rejected on the ground that the disability existed prior to enlistment, the only evidence of disability being the statement of the captain of the company in his certificate of disability that "he has been afflicted for about eighteen months with lung disease." On the other hand, Mrs. Miriam Williamson, M. D., says:

"I was claimant's family physician and was frequently in attendance upon the different members of the family (especially on the father); that she had good and frequent opportunity to know of condition of claimant prior to and at the date of his enlistment in the Army; that he was to all appearance and from her

knowledge of him at that time a sound and able-bodied man, free from lung disease; that had he had any lung trouble she would have known it."

The postmaster at Waynesville, Warren County, Ohio, says:

"Mrs. Williams is an excellent lady, who is a regular physician, having studied with her husband, and her character is unimpeachable."

A. H. Dodge testifies that he had known the claimant from 1857 to time of enlisment and considered him a strong, healthy man. The postmaster says, "He is a good, truthful man." Mary and J. A. Malony say they had known claimant for four years before enlistment, boarded in the same family with him, and to the best of their knowledge he was not troubled with lung disease. The postmaster speaks in high terms of the character for truth and sincerity of these witnesses. W. F. Rosenboyer, a comrade in the same company, says claimant was taken down with lung fever at Barboursville, in December, 1861, and he was left under treatment of Dr. Clark, one of the regimental surgeons. G. W. Ebright, another comrade, testifies that they had made a long, hard march of over one hundred miles, and that in consequence of the exposure and hardship of this march claimant was taken sick and that he never recovered.

Dr. Ayers, assistant surgeon in charge, testifies to having treated him during his sickness. The testimony is full and complete that he never fully recovered; that he was unable to do any further service in his command; that he was discharged the following March, has been an invalid ever since, and that he is now sick and poor. The case would doubtless be allowed without hesitation in the Pension Department were it not for the unfavorable statement of the captain of the company in the certificate of disability.

Your committee believe that the strong evidence by unimpeachable witnesses to the contrary ought to have been received and the pension allowed. But admitting that the claimant's lungs were weak when he enlisted, it is evident that the long marches and exposure to inclement weather severely injured his health, and he is clearly entitled to relief during the very few years yet remaining to him. Your committee heartily recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

HARLAN JACKSON.

The next business on the Private Calendar was the bill (H. R. 4458) granting a pension to Harlan Jackson.

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 Harlan Jackson, late of Company L, Sixth Regiment Kansas Militia.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4458) granting a pension to Harlan Jackson, would submit the following report:

The evidence shows that claimant was an enlisted man in Company L, Sixth Kansas State Militia; that the company was called into the United States service to repel the invasion of the State by the rebel forces under the command of General Sterling Price; that on the 24th of October, 1864, an engagement took place in Linn County, Kansas, known as the "Battle of Mine Creek," in which claimant received a gunshot wound in the left shoulder and arm. Capt. John H. Belding, Lieuts. John M. Seright and William A. Baugh testify that they know the above statements to be true from personal knowledge. The Pension Department can not grant a pension, because the law provides that all claims for pensions filed by militiamen must be proved up before July 4, 1874. It has been the universal custom to grant pensions by act of Congress to members of the State militia wounded in action in line of duty while under the command of officers of the United States Army. Your committee therefore recommend the passage of the bill.

Mr. HEWITT, of Alabama. I desire to say just one word. I do not think that Congress, the House or the Senate either, has ever failed to pass one of these bills. It does seem to me there ought to be a general law repealing the limitation as to the militia. If that were done it would relieve the Private Calendar of a great many of those cases.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARTHA ANGELL.

The next business on the Private Calendar was the bill (H. R. 2138) granting a pension to Martha Angell.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll the name of Martha Angell, widow of Lieut. John C. Angell, late of Company B, Ninth Regiment West Virginia Volunteer Infantry, subject to the limitations and provisions of the pension laws.

The Clerk commenced to read the report.

Mr. BAGLEY (interrupting the reading). I ask unanimous consent that the further reading of the report be dispensed with.

Mr. HEWITT, of Alabama. Let it be printed in full in the RECORD.

There being no objection, the further reading of the report was dispensed with, and it was ordered to be printed in the RECORD.

The report (by Mr. MORRILL) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2138) granting a pension to Martha Angell, submit the following report:

Claimant is the widow of John C. Angell, who enlisted September 10, 1861, in Company F, Benton Cadets Infantry Volunteers, and who was at time of his discharge, December 23, 1864, a lieutenant of Company B, Ninth Regiment West Virginia Volunteers. Lieutenant Angell died September 3, 1876, from St. Vitus's dance, produced by overexertion during hard marching in the mountains of West Virginia. Samuel Bell, first sergeant of Company B, Second Virginia Veterans, testifies that he knew Lieut. John C. Angell from 1860 until the time of his death, and was present when he died and knew him during the war and after. Was in the same brigade with him when he was assigned to the ambulance corps on account of a nervous, tottering step. He had no bodily ailment such as would cause him to require medical attendance. The same nervous disease terminated his life at Laclede, Mo., September 3, 1876. He was unable to perform any manual labor from the time of his discharge until his death. That Drs. John R. Philson and J. C. Griffith, who treated him, are dead. We believe the disease of which Lieutenant Angell died was contracted or produced by the heavy mountain campaigns of West Virginia during the three years of service.

J. H. Lowhead, late first lieutenant of Company E, same regiment as Angell, says:

"I have known the late Lieut. John C. Angell since 1857, during the war, and for two years after the war intimately. When he joined the Ninth Regiment West Virginia, early in 1862, he was in good health and always with his command in all the arduous marches to Cayd's Mountain, under General Crook, to Lynchburg, under General Hunter, and the campaign in the valley of Virginia. I repeatedly said to him, 'Lieutenant, you are killing yourself by your excessively hard duty.' I knew him in the Army as one of the bravest soldiers; always doing duty, many times physically unable. After the war I knew him as a broken and wrecked man, physically and mentally. I would further say that the disability seemed to be excessive nervousness. I might say he was suffering from nervous prostration. I solemnly say that from the time he began to fail while in the service up to the last time I saw him, probably in 1867, he gradually and rapidly failed physically and mentally, and was in such a helpless condition that he had to be waited on by his friends."

Professor Lowhead is superintendent of schools of Bourbon County, Kansas, and a man of unquestioned integrity. Hiram Curtis, a man of undoubted veracity, testifies:

"He knew Lieutenant Angell before enlistment; that he was a healthy man when he entered the service. I participated in some of the battles in which Lieutenant Angell was engaged up the Valley, Hunter's raid and retreat, and battle of Winchester. I believe the rigid mountain campaigns of Virginia produced the nervous debility from which he suffered. I knew him after the war, and that he was not capable of performiug manual labor, and that the nervous debility grew on him and affected his mind until he died; that he left a family of wife and six children with nothing whatever, homeless, and dependent on friends; that his wife and children are still dependent."

W. A. Ellis and J. C. McElroy testify in strong terms to his high character and good health during the five years preceding his enlistment.

I. Malloy, captain Company A, One hundred and sixth Ohio Volunteers, says:

"Lieutenant Angell was in the full sense of the term a No. 1 soldier. I was personally associated with him in many battles in the valley of Virginia, also on the Hunter raid, which was one of the hardest of the war. I knew him before and after the service, and believed him to be a healthy man when he enlisted. The disease of which he died, St. Vitus's dance, was due to the many long marches made by his command in the campaigns of West Virginia."

A. Campbell, captain Company A, Second Virginia Volunteers, testifies:

"He knew Lieutenant Angell from childhood to time of enlistment; that he attended school with him, worked in the same mill with him, and was especially intimate with him. That prior to the war he was always well and sound; that he entered service about the same time and saw him frequently in the service. Up to beginning of the Hunter raid know he was in good health. During that raid I observed that his strength failed and his mind became flighty. At that time I thought the hardships and exposure of that campaign had broken him down, and still believe so. Met him again after my own discharge at Racine, Ohio, and found him unfit for any mental or physical labor. His condition was the subject of common conversation among his acquaintances, every one considering him 'out of his mind.' At that time suggested that he apply for a pension, but he refused, as he had an insane idea that he was sound in body and mind. He was strictly temperate, and his moral character was excellent."

T. J. and B. A. Elliot, men of excellent character, make full and strong affidavits to the same effect.

Dr. Z. T. Stanley says:

"I attended Lieutenant Angell in his last illness, and that he died at Laclede, Mo., September 3, 1876, of a nervous disease commonly known as St. Vitus's dance. Excessive overexertion and exposure of a long and fatiguing march in a mountainous district would produce the disease of which he died."

While from the nature of the disease it seems impossible to secure the rigid proof required in the Pension Office, yet your committee feel that considering the amount of the evidence and the high character of the affiants there can not be the slightest doubt but what this soldier's death was caused by his severe and arduous service, and unhesitatingly recommend the passage of the bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SAMUEL HANSON.

The next business on the Private Calendar was the bill (H. R. 542) granting a pension to Samuel Hanson.

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 Samuel Hanson, late a private in Company D, Thirty-fourth Regiment of Iowa Volunteer Infantry.

The Clerk read the report in part.

Mr. PERKINS (interrupting the reading.) This is a long report. I ask that the further reading be dispensed with, and that the report be printed in the RECORD.

There was no objection.

The report (by Mr. MORRILL) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 542) granting a pension to Samuel Hanson, submit the following report:

This soldier enlisted January 16, 1864, in Company D, Thirty-third Regiment Iowa Volunteers, and was mustered out with his company August 15, 1865. In 1870 he applied for a pension, alleging disability from lung disease; that in March, 1864, at Little Rock, Ark., he was attacked with lung fever from exposure while in service, which seriously affected his lungs and from which he never recovered. The Adjutant-General's report shows that he was left sick at Little Rock March 23, 1864. The Surgeon-General's report shows that he was admitted to general hospital at Little Rock March 22, 1864, for treatment for "pleuropneumonia," and returned to duty April 11, 1864.

Riley Jessup, late captain of Company D, in affidavit made September 23, 1870, states:

"At Little Rock, March, 1864, while in the line of duty, claimant was attacked by lung fever, brought on by exposure in the service; said disease affected his lungs, and that they continued affected until discharge; that his lungs were not affected at the time of enlistment or prior to said attack of lung fever; that claimant was of good habits while in the service, and, in affiant's opinion, the disease was the result of unavoidable exposure."

Dr. D. A. Hoffman states:

"Claimant was examined by me before he enlisted, for the purpose of ascertaining whether he was a sound man physically. That at that time he was not affected with any disease of the lungs. On his return from the service, immediately after his discharge, I treated him for disease of the lungs, which was the result of acute inflammation of the lungs, contracted while he was in service. I have treated him for the said disease at various times since September, 1865, to the present time (December, 1870), and that his disease still continues."

The testimony is ample and undisputed that his disease has continued ever since, excepting that Dr. Huntsman, of Oskaloosa, the examining surgeon, said in 1772 that he found no disease of the lungs. A few months later another examining surgeon says:

"I find upon examination that the applicant has a deep, hollow cough, ex-

pectorating purulent and muco-purulent matter, night-sweats, and emaciation; auscultation shows in the upper portion of the left lung; cavernous râle; respiration and voice amphoric; dullness on percussion over the whole left lung; the lower portion very dull, and can not ascertain that air passes into that portion of it. He is physically unable to perform manual labor."

A few months later Dr. W. S. Orr, examining surgeon at Ottumwa, reports him totally incapacitated from obtaining a sustenance by manual labor, and says the disability is probably permanent.

It would seem as though nothing was wanting to establish a case in the Pension Department, but two special examiners were sent out and a mass of contradictory evidence was submitted, and the case was finally rejected on the ground that claimant's lungs were affected when he went into the service. If the evidence submitted by the special examiners proves anything, it proves that the soldier was a weak man, physically unfit for the service when he was accepted; that he was a hale, hearty man after his discharge, working at heavy work in a stone-quarry and receiving full wages; that he was before enlistment a sound, rugged young man, of excellent habits, and at the same time a confirmed drunkard; that he had a severe consumptive cough; and by other witnesses equally reliable it is proven that he "never had the least symptoms of anything being the matter with his lungs prior to his going into the Army; that he was frequently employed to chop wood and split rails, and was noted as a first-rate wood-chopper." The Commissioner of Pensions in 1878 was evidently bewildered by this mass of contradictory evidence, for in a letter to claimant's agent he says:

"The invalid pension claim No. 162081, of Samuel Hanson, was rejected September 16, 1875, upon competent evidence (medical and lay) elicited by special examinations, showing that the alleged disease was not due to the service; in other words, that his lungs were diseased at the time he enlisted, and that the principal cause of his disability was due to an attack of lung fever since his discharge. It is proper to add that an examination made March 2, 1872, fails to discover any disease of the lungs."

This is certainly being equal to the occasion. The disability existed before enlistment, the disability was caused by lung fever after enlistment, and finally the disability never existed at all.

The simple facts seem to be that some two months after enlistment the soldier had an acute attack of lung fever from which he has never recovered, and that he is now totally incapacitated from performing manual labor. By the passage of this bill his few remaining years will be made comparatively comfortable. He loses the twenty years of arrears to which he seems to have been as clearly entitled as his more fortunate comrades who received them. Believing that simple justice requires that the Government should care for this soldier, your committee recommend the passage of this bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SAMUEL M. BARTLETT.

The next business on the Private Calendar was the bill (H. R. 7094) granting a pension to Lemuel M. Bartlett.

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 Lemuel M. Bartlett, late a private in Company K, Thirty-fourth Regiment Illinois Volunteers.

The Committee on Invalid Pensions recommended the following amendments:

In line 6, strike out "Lemuel" and insert "Samuel."

Amend the title so as to read:

"A bill granting a pension to Samuel M. Bartlett."

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7094) for the relief of Samuel M. Bartlett, submit the following report:

Samuel M. Bartlett enlisted in Company K, Thirty-fourth Illinois Regiment, December 2, 1861, and was discharged December 20, 1862, for disability. He filed an application for pension June 28, 1880, basing his claim on injuries received in line of duty while on detached service, guarding baggage trains, by jumping hastily from wagon, the train at the time being suddenly attacked by guerrillas; in jumping he struck on his right foot and ankle, turning same under and crushing and disabling it. He also claims to have ruptured himself at the same time, which rupture has since developed into an aggravated hernia. His claim was rejected by the Pension Department, the reason being "claimant discharged for old fracture of right ankle."

The evidence in the claim is strong and conclusive that prior to enlistment he was a sound, healthy, able-bodied man, with no apparent disabilities.

Elijah Hubbard testifies:

"Knew claimant years before he enlisted; he was sound, wholly free from lameness of right ankle and foot, and affiant believes claimant had no hernia; was well known for his prowess in athletic sports and at hard labor; lived near him much of his life; never knew of his being ill before his enlistment."

T. E. Stockwell testifies:

"Knows claimant was sound at and before enlistment, doing hard labor, with no lameness of right ankle and foot, and to best of belief was free from hernia; knew claimant a number of years before enlistment."

John Thompson, comrade, testifies:

"I knew claimant about a year before enlistment; lived near him; saw him almost daily; enlisted with him the same day, and believe he was sound and free from hernia, lameness of right foot and ankle, and varicose veins."

D. C. Wagner, captain of claimant's company, says:

"Claimant was sound, with no lameness of right foot and ankle or hernia prior to being detailed during the fall of 1862 for guard duty over the mountains between Tennessee and Kentucky; had previously been able to perform any duty assigned him; never saw claimant after he went on said duty."

John Thompson, comrade, says:

"He was in hospital at Louisville, Ky., when claimant was brought in with injuries of right foot and ankle and great soreness and pain in pit of stomach. After discharge saw claimant at his home in Portland, Ill.; he was quite lame from injury to foot and ankle, and his stomach trouble had developed into an aggravated hernia."

Benjamin Woodwood, surgeon Twenty-second Illinois Volunteers, in charge of Park barracks in November and December, 1862, testifies that there was a man who was injured as claimant alleges to have been, but can not swear to his identity.

C. L. Fisk, examining surgeon, Franklin, Mass., certifies:

"Applicant received an injury to right ankle-joint by jumping from a train-wagon, which has resulted in permanent lameness, attended with fearful swelling and varicose veins of the leg. He also has a hernia midway of the lower portion of the sternum, and the umbilicus as large as a small orange, or about three inches in diameter. I rate one-half on ankle and results and one-half on hernia and results."

S. K. Field, R. A. Dudley, E. O. Dickenson, selectmen of Leverett, Mass., certify that claimant is old, in poor health, totally disabled for manual labor, and a charge upon the town, being in its poor-house.

In view of all the facts, your committee think a case is made and well established by all the evidence; they therefore recommend the passage of the accompanying bill, with the following amendments: Substituting "Samuel," in the title and also in the sixth line, for the word "Lemuel."

Mr. HEWITT, of Alabama. I would like to make an inquiry of the gentleman who reports this bill. I did not catch in the reading whether the report states what this soldier was doing in the wagon.

Mr. MATSON. The gentleman from Massachusetts [Mr. LOVERING], who reported the bill I believe is not present. The report distinctly states that this soldier was injured, while on detached service guarding baggage trains, by jumping hastily from wagon, the train at the time being suddenly attacked by guerrillas.

Mr. HEWITT, of Alabama. When the guard of a wagon is discharging his duty is his place inside the wagon? Is that the soldier's place?

Mr. MATSON. I suppose it may sometimes be right for the soldier in such a case to ride on the wagon. I have heard of officers riding on wagons.

Mr. HEWITT, of Alabama. But that is not the place for them.

The amendments were adopted.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

LLOYD W. HIXON.

The next business on the Private Calendar was the bill (H. R. 6798) to grant a pension to Lloyd W. Hixon.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lloyd W. Hixon, late an assistant surgeon in the service of the United States of the Thirteenth Regiment of the Massachusetts Volunteers.

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

That claimant was mustered into the military service of the United States as assistant surgeon, Thirteenth Regiment Massachusetts Volunteers, March 3, 1862, and honorably discharged August 1, 1864.

November 6, 1882, he filed a declaration for pension, alleging that he contracted deafness while in the service and in line of duty, which was rejected January 18, 1884, on the ground of existence of disability prior to enlistment.

Charles W. Hovey, inspector of customs, Boston, Mass., testifies:

"That he was a lieutenant-colonel of claimant's regiment in the service; remembers that he was troubled with deafness at Belle Plain, Va., in the winter of 1862-'63, which was greatly increased by exposure; at discharge was seriously troubled, and believes it was the result of exposure in the service."

A. W. Whiting, M. D., of Newton, Mass., says he was surgeon of claimant's regiment:

"That the exposure incident to the service was such as to seriously affect claimant's hearing, and his deafness was increased to such an extent as to incapacitate him from practicing his profession, which resulted, in his opinion, from the exposure and hardships of the service."

Dr. J. O. Green, of Boston, Mass., testifies, December 3, 1881:

"Known claimant since 1863, but first treated him in 1873 and during each year to 1876 for catarrhal deafness of an aggravated type, which made gradual progress, producing more and more thickening of the tympanum, mucous membrane, and secondary disease of auditory nerve, until now (May, 1883) he can not distinguish words through the most powerful ear-trumpet nor hear a vibrating tuning-fork when placed on the skull and mastoids, and there is no question about the disease being hypertrophic inflammation of the mucous membrane, aggravated in character and progress."

Oliver E. Cushing, of Lowell, Mass., testifies April 21, 1884:

"I have known Lloyd W. Hixon for many years, and at no time prior to his enlistment in the United States service in 1861 was he incapacitated from the discharge of any professional duties by his inability to hear."

Artemus S. Tyler, of Lowell, Mass., testifies April 21, 1884:

"I have known Lloyd W. Hixon for many years, and at no time prior to his enlistment in the United States service was he incapacitated for the discharge of any professional duties by his inability to hear."

In addition to the testimony specially cited above, it is clearly shown by a preponderance of the evidence that the claimant was free from the disability at the time of his enlistment in the military service; that the disease had its origin in the service and while in line of duty; that the disability so incurred has continued to increase in severity until the soldier is now shown by the report of the United States examining surgeon to be totally disabled.

Your committee, in view of the facts, unhesitatingly 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.

EDWARD WILCOX.

The next business on the Private Calendar was the bill (H. R. 6775) granting a pension to Edward Wilcox:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Edward Wilcox, an imbecile son of Leonard Wilcox, late of Company A, Twenty-first Regiment Connecticut Volunteer Infantry, and pay his legally appointed conservator a pension of $25 per month from and after the passage of this act.

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

Edward Wilcox is the orphan imbecile son of Leonard Wilcox, late of Company A, Twenty-first Regiment Connecticut Volunteers, who died at Falmouth, Va., December 16, 1862, the mother of Edward having died prior to the enlistment of the father, or on June 16, 1859. Edward Wilcox was born March 11, 1858, an idiot, and is now 26 years of age.

After the death of his father he drew a pension as a minor child until he was 16 years of age, when, under the law, his pension ceased. He has lived with an uncle and aunt, who have done what they could for him, which at best was not much, as they themselves were very poor, being often helped, as the records of the town of Stonington, Conn., frequently show, by its authorities, in the matter of food and supplies. The uncle is now dead, and the poor unfortunate is left in the keeping of the aunt, who is poor in purse and feeble in health, and is scarcely able to maintain herself except by assistance above quoted.

Herewith is appended the sworn affidavit of Dr. E. Frank Coats, of Mystic Bridge, Conn., namely:

"That he has known Edward Wilcox, of Mystic Bridge, Conn., only son and child of Leonard Wilcox, since the time of his birth, March 11, 1858, and that he is now and always has been an idiot, incapable of taking care of himself, and is wholly dependent upon an aunt, who is feeble and dependent upon her own hands for support. His mother died of hemorrhage of the lungs in 1859, and his father died in the Army of the late war in the service of his country. I have been physician to the family ever since the birth of the said unfortunate child."

Inasmuch as Congress has power to grant the relief asked, and have in several like instances granted its aid to those who, like the beneficiary in this bill, are more helpless than a minor child, your committee are of opinion that the relief sought should be granted, and would therefore recommend the passage of the accompanying bill with an amendment striking out the words "twenty-five," in the eighth line, and substituting the word "eighteen" therefor; so it shall read, "a pension of $18 per month," &c.

The amendment reported by the committee is as follows:

In line 8, strike out the word "twenty-five" and insert "eighteen."

The amendment was agreed to.

Mr. MATSON. Mr. Chairman, I offer another amendment. After the word "conservator," in line 7, insert the words "for his use and benefit;" so that it will read: "and pay his legally appointed conservator, for his use and benefit, a pension," &c.

The amendment was agreed to.

There being no objection, the bill as amended was laid aside to be reported to the House with a recommendation that it do pass.

Mr. CULBERTSON, of Kentucky. Mr. Chairman, two weeks ago House bill No. 4079, for the relief of James B. Kirk, was laid aside informally, as some of the gentlemen present may remember, and I desire to have it taken up and disposed of.

Mr. MATSON. Mr. Chairman, I will say to the gentleman from Kentucky that I will yield to him after we shall have gone through with the bills on the page on which we are now working, as I think it is the desire of the House to give all the members present an opportunity to call up such bills as they see fit.

WEALTHY H. SEAVEY.

The next business on the Private Calendar was the bill (H. R. 6966) granting a pension to Wealthy H. Seavey.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of Interior is authorized and directed to restore to the pension-roll the name of Wealthy H. Seavey, of Erroll, N. H., as dependent foster-mother of Charles W. Seavey, late a private in Company I, Seventh Regiment Maine Volunteers, subject to the provisions and limitations of the pension laws.

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

That Charles W. Seavey, when an infant, was adopted by the claimant as her own child. She brought him up and he always resided with her till his enlistment as a private in Company I, Seventh Regiment Maine Volunteers, in 1861. Mrs. Seavey had the benefit of his earnings before his enlistment, and he frequently sent her money from his earnings after going to the war—at one time $5, at another $30, and at another $100. Mrs. Seavey was a widow when her adopted son enlisted, and is a widow now. The son died while in the service and in the line of duty. There is no question about her dependence upon the deceased for support. A pension was allowed her at the Pension Office, but was shortly afterward stopped, because the deceased was not her own son. The correspondence of the soldier with Mrs. Seavey during his Army service has been produced, and shows clearly that the deceased called the claimant his mother, and it is clear that he treated her as such from infancy to his death.

Mrs. Seavey now is an old lady, in feeble health, and entirely without means of support. The deceased left no near relatives who ever took any interest in him during his lifetime or since his decease. The only reason for disallowing the pension at the Pension Office was because the claimant was not his natural mother. Your committee recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

SARAH A. BURCHFIELD.

The next business on the Private Calendar was the bill (H. R. 7373) for the relief of Sarah A. Burchfield.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized and directed to adjudicate the pension claim of Sarah A. Burchfield, widow of Robert L. D. Burchfield, who was a lieutenant of Company D, Third North Carolina Mounted Infantry, as though he had been regularly mustered into the service of the United States at the time of his being wounded.

The report (by Mr. J. S. WISE) was read, as follows:

That Robert L. Burchfield was a second lieutenant in Company D, Third North Carolina Mounted Infantry, and was appointed as such on the 1st of January, 1865, and served to 8th August, 1865, as appears by act of Congress of March 13, 1872.

By the above act of Congress the said Burchfield was paid for services as such officer for the period above mentioned. But this private act failed to direct that his name should be placed on the rolls of said regiment as a second lieutenant, for which reason the Pension Office refuses to grant the relief asked by the widow of said Burchfield.

Not only does this act of Congress recognize the fact of his being such officer, but the proof from persons having actual knowledge shows that said R. L. D. Burchfield was a second lieutenant in Company D, Third Regiment of North Carolina Mounted Volunteers, and that he served faithfully as such soldier and officer.

That said Burchfield, while in line of his duty, was severely wounded by the enemy in Cherokee County, North Carolina, which rendered his left leg entirely useless, the ball taking effect in the left thigh, near the hip-joint, and passing through and coming out near the knee-joint, and unfitting the left leg for any kind of use.

The said Burchfield filed his application for pension in consequence of disability on the 3d day of January, 1873, which was rejected on 20th July, 1874, for the reason hereinbefore stated.

The said Burchfield was honorably discharged on the 8th day of August, 1865, at Knoxville, Tenn. The said Burchfield has since died, and Sarah A. Burchfield is his widow, now surviving.

Under the holding of the Pension Office the widow could not obtain a pension. The committee, being of opinion that her claim is meritorious and that she is entitled to prosecute her claim for a pension free from obstructions, do recommend the passage of the accompanying bill as a substitute for H. R. 1135.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

WILLIAM S. RAY.

The next business on the Private Calendar was the bill (H. R. 7374) to restore William S. Ray to the pension-roll.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby directed to restore William S. Ray, late a private in Company G, Third Regiment North Carolina Mounted Infantry, to the pension roll.

The report (by Mr. JOHN S. WISE) was read, as follows:

William S. Ray was duly enlisted as a private in Company G, Third North Carolina Mounted Infantry. He was placed on the pension-rolls on account of wounds received which totally disabled him, receiving at the time $18 per month. He was dropped from the rolls the 26th of May, 1877, on a report from G. H. Ragsdale, special agent from Pension Department, on a charge that he was not in the line of duty when wounded. The affidavits of comrades show that the soldier came through the lines from his regiment in Madison County, North Carolina, on the special duty of piloting recruits for the Federal service, which he often did, and was fired upon by rebel scouts while so employed, receiving his severe wound at the time. This testimony is corroborated by that of soldiers in the confederate army who were eye-witnesses to the whole affair.

The committee think that the testimony is sufficient to restore the soldier, and we recommend the passage of a substitute for the original bill.

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

Mr. HEWITT, of Alabama. Mr. Chairman, I desire to make one or two observations in relation to this matter. It appears that in this case a special examiner was sent out, I suppose to the home of this soldier, to inquire into his title to a pension. That examiner must have had the witnesses before him and must have had an opportunity to examine them face to face. Obviously, therefore, he could better tell whether or not they were testifying truly than this House possibly can from mere *ex parte* affidavits—none of us having even seen any of the witnesses. This man was dropped from the rolls upon the report of that special agent. If that agent was a bad man, or if he was an incompetent man, this report fails to so state. Now the point I desire to make is this, that wherever there has been an examination by a special examiner of the Pension Office who has had the witnesses before him, he certainly has had at least a better opportunity of getting at the facts than any committee of this House, any dozen men in this House, or the whole House together, can possibly have upon mere *ex parte* affidavits.

One other remark I wish to make. There is a general law that has stood upon our statute-book for many years, which requires the Commissioner of Pensions in all cases where a pension claim has been rejected in his bureau, and where he deems the case a meritorious one in regard to which Congress should act, to report the facts to this House, together with the evidence upon record in the bureau, with his recommendation that Congress shall take action upon it. I do not wish to take up the time of the House with this matter, because I despair of preventing the passage of these measures except by filibustering—which I do not propose to do; but I wish to say that in my opinion a case that can not be made out before the Commissioner of Pensions or before the Pension Bureau upon *ex parte* affidavits is certainly a very poor case to come before Congress.

Mr. KETCHAM. Mr. Chairman, I would like to ask the gentleman from Alabama [Mr. HEWITT] if he can tell us whether this special examination was held under the new system, which gives the claimant the privilege of cross-examining the witnesses, or under the old system where the inquiry was wholly *ex parte?*

Mr. HEWITT. I do not know. I do not suppose that the report gives that information. I will say, however, that I approve of the new system, for I do not believe in sending out spies to make secret examination into these cases. I will ask the gentleman from Indiana [Mr. MATSON] whether this is one of the old cases?

Mr. MATSON. It is.

Mr. HEWITT, of Alabama. Well, the observations that I have been making upon this subject are general and are not meant to apply specially to this particular case; but I do say that this House ought to lay down the rule that it will not receive or consider a case coming from the Pension Bureau that has been investigated there and finally adjudicated, unless it is accompanied by a recommendation from the Commissioner of Pensions under the general law.

Mr. MATSON. Mr. Chairman, the objections made by the gentleman from Alabama, in relation to this case, are not without force. However, as to the point that this case has been investigated by a special examiner of the Pension Office, I desire to call the gentleman's attention to the date of that examination. It appears from the report that the examination was made in May, 1877. At that time the practice of the Pension Office was to send out secret agents to examine into cases pending, or cases that had been adjudicated in the office, giving no notice whatever to the claimant, but examining the witnesses without his knowledge, taking the testimony of persons who were opposed to him, and giving him no opportunity to meet and cross-examine those witnesses. The examination in this case was probably of that kind, because that was the practice at the time it was made.

Then, as to the objection that pension bills ought not to be passed by this House unless in cases recommended by the Commissioner of Pensions, that is to be answered by the fact that if the Commissioner of Pensions and the clerks in the Pension Office are to be required to perform that additional labor, to examine not only into the legal features of each case, but also into its equitable merits, then the adjudication of claims in that office will necessarily be even slower than at present. I think the gentleman would hardly propose to put that additional labor on the Pension Office, because it would, of course, necessitate the employment of a large additional number of clerks.

Mr. HEWITT, of Alabama. I will ask the gentleman whether there is not a number of cases that come before his committee with the recommendation of the Commissioner of Pensions under the general law?

Mr. MATSON. There are cases of that kind, and we have reported, I suppose, as many as twenty or thirty of them, or possibly more than that, during this Congress. I believe that all the cases that have been recommended by the Commissioner have been reported favorably by the committee. But the fact that some cases have been recommended in that way is no reason for assuming that they are the only meritorious ones. Those cases were recommended because it happened that the parties prosecuted them and followed them up and brought them to the special attention of the Commissioner, who therefore recommended them to Congress under the resolution of 1830.

Mr. HEWITT, of Alabama. I would further ask the gentleman whether or not it is the duty of the examiners of the Pension Office, wherever they think a case has equitable merits, although it does not meet the requirements of the law, to call the attention of the Commissioner of Pensions to it?

Mr. MATSON. I do not remember the exact language of the resolution of 1830, but my impression is that it applies only to the Commissioner of Pensions.

Mr. HEWITT, of Alabama. Of course it applies to the Commissioner of Pensions, but it is the Commissioner who passes upon all these cases. The clerks and other employés of the department are merely his agents.

Mr. MATSON. I am quite sure that the practice of the office is not such as to require the examiners to call the attention of the Commissioner to the fact that in their opinion Congress ought to intervene in particular cases, and I am quite sure also that those cases in which the Commissioner has made recommendations have been cases to which his attention was specially called.

Mr. WOLFORD. As I understand the report in this case, the Commissioner of Pensions rejected this claim because he held that conducting recruits to the Army was not in the line of this soldier's duty.

Mr. HEWITT, of Alabama. I think the claim was rejected because the man was considered to have been a deserter.

Mr. MATSON. I will say in reply to the gentleman from Kentucky [Mr. WOLFORD] that the rejection by the Commissioner of Pensions, as I understand, was not upon the ground that conducting recruits was not a part of the soldier's duty; the Commissioner did not say that; but in rejecting the case he said it appeared from the evidence taken by this secret special detective that the man was not in the line of duty when wounded.

Mr. WOLFORD. Another question: Does not the report state that the proof shows the man was conducting recruits at the time he was wounded?

Mr. MATSON. Yes, sir; the report so states.

Mr. HEWITT, of Alabama. But suppose he had no order to be conducting recruits; that he left his command and engaged in this service on his own responsibility, what do you say about that kind of a case? A man might much prefer to go out and bring in recruits than to be engaged in fighting battles.

Mr. MATSON. I think that if the soldier was engaged in that kind of occupation, whether he had the command of an officer to do so or not, he was serving his country in a military capacity, and if wounded while so engaged ought to be pensioned.

Mr. HEWITT, of Alabama. Though he had left his command without orders and without leave?

Mr. MATSON. I do not say that if he was absent without leave or was a deserter he would be entitled to a pension; but I do say that in the absence of any proof on that point, if at the time he was wounded he was engaged in his military service, which was for the benefit of his country, he ought to be pensioned.

Mr. HEWITT, of Alabama. If he had been regularly detailed by a proper officer having authority to detail him for that purpose and was performing that service under a lawful order, and was wounded while so engaged, he would be entitled to a pension, because he would have been in the line of duty.

Mr. MATSON. In that case he could get a pension through the Pension Office.

Mr. HEWITT, of Alabama. But if he had left his command without orders and entered of his own choice upon this kind of service, and had been killed while so engaged, he would not have been killed in the line of duty; and neither his widow nor any one else who had been dependent on him would be entitled to a pension under the law.

Mr. MATSON. This soldier might not have been in the line of duty in the strict meaning of the term, and at the same time might not have been a deserter or absent without leave. He might have had the right to be absent from his command, might not have been a deserter in any sense of the word, and I repeat, if he was not a deserter, was not absent without leave, and was engaged in this business, I think he ought to be pensioned if he was wounded while in the performance of such service.

Mr. O'HARA. Mr. Chairman, in regard to the objection raised by the gentleman from Alabama [Mr. HEWITT] as to the *ex parte* statement in behalf of the petitioner, it is clearly shown by the report of the committee that the information upon which this soldier was dropped from the pension-roll was purely *ex parte;* so that in this respect the case is equally balanced. But, as shown in the report, disinterested parties, the soldier's comrades, men who were with him at the time, testify that he was in the line of duty.

The gentleman from Alabama makes a further objection that perchance the soldier engaged in this particular line of service without a command from some superior officer. This objection is also met by the affidavits of his comrades, who state that he was there in the line of duty; and as has been said by the chairman of the committee, whether he was or was not there by express command, he was doing a service to his country, which was then imperiled. He was discharging a duty for which every loyal citizen of the Government would commend him; and I think the mass of the American people will indorse the action of Congress in giving him a pension under circumstances of this kind.

Mr. WOLFORD. Only a few words in relation to this case, for I do not want to occupy the time of the House.

It occurs to me that if ever there was a case where a man was fairly, justly, and honestly entitled to a pension, this is such a case, if we can believe the facts as stated in the report. I am not talking about the man being entitled to a pension according to the rules and regulations made by the Pension Department under authority of law, but I am talking about his being entitled to a pension from the Congress of the United States on account of having been wounded in the service of his country.

Now, I want to call the particular attention of my friend from Alabama and of the House to a few facts in relation to this case as reported.

It is in proof according to the report that he was in the line of his duty. Not only that, but it is in proof he was in the line of his duty. How in the line of his duty? Why, sir, that he was conducting recruits. He was then in a country which was in possession of the enemy, and in order to conduct recruits to our Army he had a very dangerous and difficult task to perform. The man who stood in battle face to face with the enemy, on equal terms, with equal numbers, was not in the danger, nothing like the danger, and was not doing the same service to his country in the highest sense of a dangerous service as the man who undertook to conduct recruits through the enemy's country, through the enemy's lines into the lines of our Army.

I know something about it from experience and observation. I know something about the difficulty of such a service. Here is a man that the law presumes, every single principle of common sense presumes, did not undertake this difficult and dangerous service in order to evade his duty, but the presumption arises and ought to arise in this Congress, and will in the mind of my distinguished friend from Alabama [Mr. HEWITT], and in the mind of everybody else who will pay attention to it—the presumption arises from the proof that he was ordered there. That is the legal presumption, the sensible presumption. And why? Because the proof according to the report is that he had previously been engaged in that very service of which no complaint was made. He was not arrested as a deserter when he brought, perhaps, many companies of recruits to our armies and did great service to it. If, then, the presumption is that he was previously engaged in doing that duty, would a deserter, would a man who had gone without authority, have selected this dangerous service; would he have repeated it without reprimand or arrest or punishment from his officers?

The legal presumption, the sensible presumption, the fair presumption for this Congress to make is that he was ordered there, or at least if not ordered, I will put it upon the ground where it is more credit and honor to him—if he was not ordered there he was permitted to go. His love of country, his desire to serve a cause which nobody could tell whether it would be triumphant or not, at a time when it was doubtful how the scale of war would turn, how the issue would eventuate; this man, from love of country, from the desire to get more men into our Army, that we might be stronger, that we might be more powerful, that we might preserve and maintain the nation in its glory and beauty, that we might be triumphant—this man, actuated by the highest motive of patriotism, by the greatest desire to see his country victorious, may have requested time and again that he should be allowed to go and get more men. If he did, it was commendable, and his pension ought to be passed that much sooner.

That is all, and the very worst phase which can be put upon it, that this man, who loved his country, desiring to go, and who did go, and did a great deal more good than he could have done as an individual standing alone in the ranks of battle. But I go further than that. I wish to say a word or two more. There are now thousands and tens of thousands of most worthy individuals, most loyal soldiers of our Army,

who are debarred from receiving a pension. The rule in the Pension Department, the law, may not give them ample protection.

I go further and say, now that the war is over, that the effort to divide and make two governments in a territory where there was but one—and that was the real issue—when that is all over we ought to do justice to the men who stood so bravely by us. [Applause.] There are of those who were in the confederate army none now but Union men. Every soldier who fought against us in the war is now for perpetuating this Government. The Government should be kind and just to its soldiers. It ought to make the soldiers love it. If you wish to perpetuate the Government in its glory and beauty—and every man does; my friend from Alabama [Mr. HEWITT] does; every man on this floor does; if you wish to perpetuate it in its glory and beauty and power and dignity, so as to hand it down as long as time shall last; if you would hand it down in its integrity, in prosperity and in honor, you must encourage the idea that this great Government will be grateful to those patriotic soldiers who fought to maintain it in the hour when its existence was imperiled. [Applause.]

Indeed, I will vote to pension every soldier of every war who has an honorable discharge. I am for doing that out of the love of liberty and to make the soldiers grateful to the country. I would do it because they have loved their country. [Applause.] I am for pensioning every one who can bring a case as meritorious as the one now presented. In every case where a man did most dangerous duty which could be done in the army, as was the case with this man, I never would forgive myself, nor would my distinguished friend from Alabama, if I voted against it. [Applause.]

The bill was laid aside to be reported to the House with the recommendation that it do pass.

W. H. H. COLEMAN.

The next business on the Private Calendar was the bill (H. R. 6982) granting a pension to W. H. Coleman.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed and authorized to place on the pension-roll the name of W. H. H. Coleman, late a private of Company B, Eleventh Regiment Pennsylvania Reserve Corps, and pay him a pension from and after the passage of this act.

The report (by Mr. PATTON) is as follows:

The committee find by the report of the Adjutant-General that H. Coleman, a private of Company B, Eleventh Regiment Pennsylvania Reserves, was enrolled on the 10th day of June, 1861; three years at Camp Wright, and reported to February 28, 1862; present up to June 30, 1863, to August 31, 1863; absent sick in general hospital since August 10, 1863; transferred to Company B October 31, 1863; absent sick February 29, 1864, to April 30, then present; mustered out with company June 30, 1864, as William H. H. Coleman.

Surgeon-General's Office reports W. Coleman, Eleventh Pennsylvania Reserves, was sent from regimental hospital to Alexandria March 29, 1862—date of admission—and returned to duty May 26, 1862.

Examining Surgeon J. M. Torrence certifies May 31, 1882:

"William H. H. Coleman is one-fourth incapacitated from obtaining his subsistence by manual labor. Claimant's disability, so far as I can judge at present, is due to the so-called muscular rheumatism; symptomatic features, tongue slightly furred; some stiffness in motion."

Examining surgeon board at Kittanning, Pa., in March 7, 1883, find—

"William H. H. Coleman's disability was possibly incurred in the service as he claimed, and he is entitled to one-eighth total rating. Also find the affidavit of Dr. Thomas St. Clair, who says, "I have known William H. H. Coleman before his enlistment and since childhood; was the family physician of his father, and believe him to have been sound when he entered the Army."

Also the affidavits of Henry Miller and Frank Hamers that—

"They were well acquainted with William H. H. Coleman, and have known him since the year 1860; that they knew at the time said claimant enlisted in the Army in the year 1861 he was a sound, able-bodied young man, and have known him since his discharge in the year 1864, and that he has been suffering with rheumatism, and they have often visited said Coleman at his residence and found him confined to his bed with rheumatism, and that he has been afflicted with said disease during all the time since he came home until the present time, and have often seen him so badly crippled with said disease as to be unable to move around."

And the sworn statement of D. H. Lucas, similar to that of the above affiants, Miller and Hamers.

Also comrades J. T. Gibson and G. A. McLain testify that—

"William H. H. Coleman was left in camp, can not remember date, but was in the fall of 1863 or spring of 1864, and affiants knew that at the time said Coleman was left in camp he was suffering with rheumatism, and affiant G. A. McLain saith that Coleman at the time he enlisted in the Army was a sound, able-bodied man and free from rheumatism. Also affiants further say that said Coleman was detailed from the company into the commissary department, and that John F. McClain, the regimental postmaster, and Joseph Hoffman, who acted as butcher for commissary department, messed and tented with said Coleman; that they are both dead."

The committee also find twelve letters from prominent citizens of Indiana, Pa., the home of William H. H. Coleman, recommending him for a pension, which letters we would add to this report.

The committee are of the opinion, after considering all the facts in the case, that the claimant is entitled to a pension, and they therefore recommend the passage of the accompanying bill.

Mr. MATSON. Mr. Chairman, I desire to offer an amendment to that bill. The form of the bill, it will be observed, is as follows:

That the Secretary of the Interior be, and is hereby, directed and authorized to place on the pension-roll the name of W. H. H. Coleman, late a private of Company B, Eleventh Regiment Pennsylvania Reserve Corps, and pay him a pension from and after the passage of this act.

I move to strike out all after the word "corps," in line 6, and add the words "subject to the provisions and limitations of the pension laws."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ELLEN EDMISTON.

The next business on the Private Calendar was the bill (H. R. 4605) granting a pension to Ellen Edmiston.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ellen Edmiston, widow of Elias Edmiston, late of Company —, —— Regiment Volunteers.

The committee recommend the following amendment:

Fill the blank in line 7 by the words "A, Fifty-fifth;" so that it will read: "Company A, Fifty-fifth Regiment Volunteers."

The report (by Mr. PATTON) is as follows:

That claimant is the widow of Elias Edmiston, who enlisted in the military service of the United States as a private in Company A, Fifty-fifth Regiment Pennsylvania Volunteers, November 30, 1863, and was honorably discharged June 19, 1865.

The soldier was pensioned in his lifetime at $14 per month, for gunshot wound of both thighs, left shoulder, and head, and died March 4, 1875.

The application of the widow was rejected on the ground that the death of the soldier was not due to his military service.

It is shown by both medical and lay testimony that the soldier was a constant sufferer from his wounds, and that for a short time before his death his mind was affected by the wound of his head. He wandered from his home on the night of the 3d of March, 1875, and on the following day was found dead in the woods. It is shown by the report of the inquest held upon his dead body that he came to his death "by exposure and cold."

Your committee are of the opinion that the death of the soldier was due to wounds he received in defense of his country, and that his widow should receive a pension, and therefore recommend the passage of the accompanying bill, amended, however, by inserting after the word "Company," in line 7 of said bill, the words "A, Fifty-fifth."

Mr. HEWITT, of Alabama. I would like to ask as to what, in the opinion of the medical board who examined this case, is the ground for granting a pension?

Mr. PATTON. I do not remember distinctly without again looking over the papers, but the facts are stated in the report. He lost his mind for some cause, supposed on account of his wounds, and while wandering in the woods died, and was found dead the next morning. He was shot three times.

The amendment proposed by the committee was agreed to.

Mr. MATSON. I move a further amendment: to insert in line 7, after the word "regiment," the word "Pennsylvania."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ELIZA WARR.

The next business on the Private Calendar was the bill (H. R. 2646) granting a pension to Eliza Warr, widow of Isaac Warr, late of Company F, One hundred and fourteenth Regiment Pennsylvania Volunteers.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Eliza Warr, widow of Isaac Warr, late of Company F, of the One hundred and fourteenth Regiment of Pennsylvania Volunteers, on the pension-roll, and to pay her a pension at the rate of $8 a month from the date of the death of her husband, November 14, 1879, to continue during life, or until she should again marry.

The committee recommend the following amendment:

Strike out in lines 7, 8, 9, and 10 the words "and to pay her a pension at the rate of $8 a month from the date of the death of her husband, November 14, 1879, to continue during life, or until she should again marry," and insert "subject to the provisions and limitations of the pension laws."

The report (by Mr. PATTON) is as follows:

The committee report that it appears from the claim for pension and evidence filed in the Pension Office in the case of Eliza Warr, widow of Isaac Warr, late private of Company F, One hundred and fourteenth Regiment of Pennsylvania Volunteers, that said soldier enlisted in said service as a private August 21, 1862, and served (when not under treatment for disabilities) until July 1, 1865, when he was honorably discharged; that while in said service and line of duty in action he was wounded at Petersburg, Va., April 2, 1865, and that also from exposure in like line of duty he contracted a severe cold, which resulted in disease of lungs, of which he died November 14, 1879; that soon after his death the widow made her claim for pension, and based her claim upon the belief that her husband's death resulted solely from his wound by depletion of the system, and the evidence of the doctors who attended him tended at first to that conclusion, but by the evidence afterward that the soldier also contracted a cold, which caused affection of the lungs, in said service; that his family doctor testified lastly more specifically as to his disease of the lungs from the time of his arrival home at the time of his discharge, showing that the consumption of which he died, although it did not originate from his wound, did result from his lung disease, which originated from cold contracted in said service. At the first the claimant had no regular attorney, and believing that she was entitled to a pension on account of her husband's wound alone (which was, it appears, a bad one), she at first omitted to state anything about her husband's disease of lungs, which she subsequently did.

The evidence filed in the case in support of the fact that consumption of the lungs, which was the immediate cause of the soldier's death, originated in the service named, is to the following effect:

Samuel Dentel and John Butcher testify that they knew the soldier from 1847; that they saw him a few weeks or a few months after his discharge and return from the Army in 1865, and he was then thin in flesh and much changed in appearance from what he was when he enlisted in August, 1862; that he had a cough and was never free from it afterward, and got worse from year to year, and died of consumption, the result of his army life; that he was sound when he enlisted, and came home broken down, and was never well afterward and not able to do laborious work; that he was also wounded and suffered from that as well as from his disease of lungs. He was energetic and never complained, and worked and attended to business when he was not able; that they lived near neighbors to him both before and after the war, and witness Butcher helped him at his work sometimes, which was that of a florist, he not being able to do it.

John I. Shuster and William France testify that they were in his company in the Army, the first named as sergeant of the company, and the last named as private, and that about the middle of December, 1864, near Petersburg, Va., from exposure in cold weather without shelter, the said soldier contracted a cold, which troubled him while in the service afterwards; that the enemy, under Wade Hampton, made a raid on the cattle of the Union Army, and the One hundred and fourteenth Regiment, to which the soldier and witnesses belonged, was sent out after the enemy, and were out all night, and spent part of the night in a temporary fort, which they called that night "Fort Freeze to Death;" that the weather was cold and they were without shelter, and the said Isaac Warr caught cold, from which he never recovered; that he was a kind of man who would not give up, and kept on duty afterward until he was sent away wounded; that up to the time he contracted his sickness he was a strong man and free from cold or cough; that witness, France, saw him several times after the war and he was still troubled with cough, and grew worse from year to year.

Peter Devereux testified that he knew the soldier from 1855, and saw him often before he enlisted in 1862, and after his discharge in 1865, and that before his enlistment he was a strong, healthy, vigorous man, and had been a soldier in the Mexican war; that the witness saw him a few weeks after his discharge from the Army in the summer of 1865, and then formed the opinion that a strong, vigorous man had been broken down by army life. Witness saw him often each year afterward, and he gradually wasted away until he died; that he had a cough after his return from the Army which resulted in consumption, of which he died.

A. W. Given testifies that he was first lieutenant and brevet captain of the soldier's company, and remembers him being off duty on account of sickness about the first of 1865. Witness could not remember the exact time nor the nature of his sickness, but is almost certain it was from cold contracted from exposure in line of duty; that he had a cough after, about December, 1864; that he was a man who would not give up, and kept on duty when not able, and after December, 1864, he got thin in flesh and had a hectic flush on his face.

Dr. James M. Leedom testifies (after the claimant better understood her rights, and based her claim on her husband's disease as well as his wound) that he attended the soldier from about August, 1865, after his return from the Army, to the fall of 1870f or disease of lungs; that when he first called to attend him in August, 1865, he was confined to his bed and had a cough and incipient phthisis, and also suffered from a wound in his left hip, which was suppurating very much, and so continued for about six months; that the witness attended him more or less every year for his lung trouble, and he had the cough during the whole time, and toward the last of said treatment his expectoration was of that nature peculiar to phthisis, and he had tubercles in the lungs when he first attended him after his discharge; that the witness has no doubt and believed that his lung disease was caused by exposure incurred in the Army, and that his wound contributed to said disease from the drain on his system; that witness knew him for three years before he enlisted and was his family physician and never had occasion to attend him then. He was then in sound health and free from lung disease.

Dr. Jacob H. Wehner testifies that he attended him from October 16, 1878, till November 14, 1879, the date of his death, for phthisis pulmonalis (consumption), and the disease was in the third or last stage; that he believes exposure while he was in the Army was the exciting cause; that he also had a wound on his left hip which had left a large cicatrice, and that the drain on his system from the wound might have contributed, and probably did contribute, to his disease.

The claim was rejected by the Pension Office before the widow filed the additional evidence as to the origin of the soldier's lung disease in the military service from cold and exposure, and notwithstanding the nature of the evidence as herein reported the Pension Office refused, under their strict ruling, to reopen or reconsider the case.

The conclusion arrived at in this case by the committee from the evidence recited is that the soldier was a remarkably strong, healthy man before and at the time he entered the service; that while in the service he contracted a severe cold, which resulted in disease of the lungs; that he was also badly wounded in one of his hips, and that from these disabilities his death resulted. We therefore report the bill favorably, and recommend its passage, amended, however, by striking out all after the words "pension-roll," in line 7 of said bill, and insert in lieu thereof "subject to the provisions and limitations of the pension laws."

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.

JESSE C. BUCK.

The next business on the Private Calander was the bill (H. R. 5146) granting a pension to Jesse C. Buck.

The bill is as follows:

Be it enacted &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll of the United States, subject to the provisions and limitations of the pension laws, the name of Jesse C. Buck, late a private in the Third Pennsylvania Heavy Artillery (One hundred and fifty-second Regiment Pennsylvania Volunteers), at the rate of $8 per month.

The committee recommend the adoption of the following amendment:

Strike out in lines 8 and 9 the words "at the rate of $8 a month."

The report (by Mr. PATTON) is as follows:

Jesse C. Buck enlisted as a private in the One hundred and fifty-second Regiment (Third Artillery) Pennsylvania Volunteers, February 29, 1864, and was honorably discharged July 5, 1865, and filed his declaration for pension November 27, 1868.

That in July, 1864, while stationed at Fortress Monroe, Va., as an unassigned recruit, he was injured by a blow on his left leg from the toe of his comrade's boot while marching at a double-quick; that the rest of the company passed over him and he was severely injured. The fact is fully established by four of his comrades, who also testified to his being sound before his enlistment and free from all lameness; also to the fact of his being lame and entirely disabled since the time of his injury.

The medical testimony is to the same effect. The doctors show that the injured limb is shorter and smaller than the other; that the injury to the tendon of the muscle has caused atrophy of the said lower left leg, severe pain, and a permanent lameness. He must use a crutch and cane in order to move.

Against all this is the certificate of the examining surgeons, who say:

"The man is now in good general health, with the exception of extreme obesity—three hundred and sixteen pounds—now really a disease, which he claims is a sequence of his enforced inactivity. That this statement and conclusions are not true and legitimate we are not prepared to assert. He claims his army weight was one hundred and sixty pounds."

They find all the signs of an injury claimed by the soldier; find him wholly unfitted for manual labor, and rate him at three-fourths. The committee find that he has properly and satisfactorily accounted for his inability to furnish any other kind of proof of his injury; that the proof by his comrades and physicians must be accepted as fully establishing his claim. The committee agree that he should be allowed a pension, and recommend the passage of the accompanying bill with the following amendment: Strike out, in lines 8 and 9, the words "at the rate of $8 per month."

Mr. HEWITT, of Alabama. I would like to ask my friend from Pennsylvania who makes this report if there has been any application to the Pension Bureau in this case?

Mr. STORM. Yes, sir.

Mr. HEWITT, of Alabama. On what ground was it rejected?

Mr. STORM. On the ground that he had not sufficiently proven, or had not proven to the satisfaction of the office, the fact that the injury was received in the service. We show here by the testimony of four of his comrades, men who were with him at the time that the injury was received, as set forth in the report, the facts in connection with his disability.

Mr. HEWITT, of Alabama. How is that stated in the report? I did not catch the reading.

Mr. STORM. The fact as set forth in the report is as follows:

The fact is fully established by four of his comrades, who also testified to his being sound before his enlistment and free from all lameness; also to the fact of his being lame and entirely disabled since the time of his injury.

Mr. HEWITT, of Alabama. I want to know the manner in which he was lamed originally.

Mr. STORM. That is also set forth in the report:

That in July, 1864, while stationed at Fortress Monroe, Va., as an unassigned recruit, he was injured by a blow on his left leg from the toe of his comrade's boot while marching at a double-quick; that the rest of the company passed over him, and he was severely injured.

Mr. HEWITT, of Alabama. He now weighs about 300 pounds, I believe.

Mr. STORM. Three hundred and sixteen; but that ought not to weigh against him now. [Laughter.]

Mr. HEWITT, of Alabama. I think he had better have a pension.

The amendment reported from the committee was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM PAUGH.

The next business on the Private Calendar was the bill (H. R. 5581) granting a pension to William Paugh.

Mr. STORM. I ask unanimous consent that this bill be passed over informally without prejudice.

There being no objection, it was ordered accordingly.

AMOS STROH.

The next business on the Private Calendar was the bill (H. R. 5387) granting a pension to Amos Stroh.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Amos Stroh, late lieutenant-colonel of the Eighty-first Regiment Pennsylvania Volunteers, on account of disease contracted in the military service of the United States, while captain of Company G, in said regiment, at the rate of $15 per month from the 1st day of August, 1863.

The committee recommend the adoption of the following amendment:

Strike out, in lines 8 and 9, the words "at the rate of $15 per month from the 1st day of August, 1863," and insert "subject to the provisions and limitations of the pension laws."

The report (by Mr. PATTON) is as follows:

That Amos Stroh was mustered into the service of the United States on the 16th day of September, 1861, as captain of Company G, Eighty-first Regiment Pennsylvania Volunteers, for three years, and was promoted to lieutenant-colonel of same regiment April 17, 1863. He claims that while in the military service of the United States and in the line of his duty he contracted a disease of the kidneys, from which he is now totally disabled.

This claim was originally filed ——, and was rejected upon a final hearing on the 11th day of December, 1879, on the ground that claimant was not disabled by disease of kidneys before or since his resignation from the Army. Additional evidence was filed, and the case reopened. On October 2, 1882, the claim was again rejected on the ground that the additional evidence filed did not change the status of the case. It is in evidence that claimant was in perfect health when he entered the service, and that he took sick on or about the close of the seven days' fight, in July, 1862, on the Peninsula, Virginia, and that in view of said sickness he was sent home on recruiting service; that after his arrival home he was confined to his room for over two weeks, and that during his stay home, a period of three months, he was treated for disease of the kidneys by Dr. A. C. Smith, his family physician; that, though only partially restored to health, at the expiration of said period he returned to his command, and, as shown, was as soon after promoted to the rank of lieutenant-colonel of the regiment. In this capacity he served until the day of his resignation; and though it is not shown that he resigned on account of sickness, it is shown that his kidney trouble had not left him. The medical testimony of Drs. Bowman, R. B. Kirby, A. C. Smith, R. Leonard, De Young, B. S. Erwin, and J. G. Zern, who have treated him from time of discharge to the present time, clearly and fully establishes the fact that he was treated for kidney disease, and no other.

Since the rejection of the claim by the Commissioner of Pensions the certificate of six physicians of Carbon County, Pennsylvania, where Colonel Stroh resides, setting forth his soundness before going into the Army, and his impaired physical condition after his return from the Army, and at the present time. They all unite in saying that he has chronic affection of the kidneys and bladder; some of these physicians knew him personally before he went into the Army.

Also a certificate of seven of his fellow-laborers (the applicant being an iron-molder), setting forth the physical condition of the soldier before and since his military service, and his inability now to pursue manual labor as a means of securing a livelihood.

Also a statement signed by twenty-eight of the officers and privates of the said Eighty-first Regiment, showing that claimant was a sound man when he entered the service, and that he became disabled in the line of his duty while on the Peninsula in 1862, from disease, which the regimental surgeon, Dr. Gardner, pronounced kidney trouble, caused by exposure, and on this account was off of duty for about four weeks, and was afterward sent home on recruiting service

in order to allow him an opportunity to regain his health. That he has suffered from the same disease since his return; that he is now sixty-three years old, and is unable to earn a livelihood by manual labor, and that a pension be allowed him. Taking all the evidence, both before and after rejection of this claim, and it makes a very strong case, and on its showing the soldier is clearly entitled to relief.

Your committee therefore recommend the passage of the accompanying bill as amended, by striking out in line 8 all of said line after the word "regiment," and strike out lines 9 and 10. And add to the bill "subject to the provisions and limitations of the pension laws."

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

GEORGE TAPP.

The next business on the Private Calendar was the bill (H. R. 6018) increasing the pension of George Tapp.

The bill is as follows:

Be it enacted &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause the pension of George Tapp, late a lieutenant of Company B, Eleventh Regiment Pennsylvania Volunteers, now on the pension-roll of the United States as certificate numbered 72534, to be increased, and to pay him a pension at the rate of fifty dollars per month.

SEC. 2. That this act shall be in force from its passage.

The committee recommended the striking out of the word "fifty," in line 9, and the insertion of "forty-five."

Mr. MATSON. I ask unanimous consent that, for manifest reasons, the reading of the report be dispensed with, and that it be printed in the RECORD.

There was no objection, and it was ordered accordingly.

The report (by Mr. PATTON) is as follows:

From the papers presented to your committee we find the petitioner, George Tapp, served honorably in Company B, Eleventh Pennsylvania Infantry Volunteers, from December 11, 1861, to November 21, 1863, and subsequently in the Veteran Reserve Corps.

In the first-named service he received three gunshot wounds, viz: August 28, 1862, a bullet entered his left arm just above the elbow-joint, and he is now, as a result of this wound, unable to extend this arm, but carries it in a horizontal position. On the same date his right forearm was pierced by a bullet, which cut into the bone and caused sloughing off of an artery, leaving this arm useless where weight is concerned.

At Gettysburg, Pa., July 1, 1863, a bullet cut the cord of right testicle in such manner that amputation of the testicle resulted; the same ball continued through the adductor muscles of the thigh. The wounds enumerated have steadily grown worse since they were received, and his left arm is practically useless, as also is his left leg for locomotion, being but a partial prop when placed in position, and it is dragged by a serpentine or semi-circular movement when the claimant tries to move over short distances by aid of a cane in his partially disabled right arm. The loss of testicle has resulted in impotence, and, deserted by his wife, he has for years existed, by means of his pension, in a hut.

Your committee are of the opinion that such disabilities as this officer has received demand that a pension sufficient to relieve him from want or dependence upon others should be granted. We therefore report favorably upon his claim and recommend the passage of bill 6018, granting a pension of $45 per month to said George Tapp, amended by striking out of bill, in line 9, "fifty dollars" and insert "forty-five dollars."

Mr. HEWITT, of Alabama. I would like to ask the gentleman from Indiana if, from his own knowledge, this is a case where the pension ought to be increased?

Mr. MATSON. It is undoubtedly such a case. The testimony is conclusive.

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ROBERT PATTERSON.

The next business on the Private Calendar was the bill (H. R. 1759) granting a pension to Robert Patterson.

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 Robert Patterson, late a private in Company F, Thirty-seventh Regiment Wisconsin Volunteers.

The report (by Mr. SUMNER, of Wisconsin) was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. 1759) granting a pension to Robert Patterson, having had the same under consideration, hereby submit the following:

The claimant, Robert Patterson, enlisted and was mustered into the United States military service on the 19th day of April, 1864, as a private in Company F, Thirty-seventh Wisconsin Volunteers, and served until May 24, 1865, when he was honorably discharged.

He made application for a pension upon the 4th day of February, 1876, upon the ground that he was disabled on account of rheumatism and erysipelas contracted in said military service, which was rejected by the Pension Office upon the 8th day of September, 1877, upon the ground that there was "no record of alleged disability, and inability of the claimant to furnish medical evidence connecting the alleged disability with the military service."

The proof is clear that he was a sound and healthy man when he entered the service. The testimony is also satisfactory that he contracted the diseases alleged at White House Landing, in August, 1864, in the State of Virginia, and while in the line of duty. It is also fully established that he was suffering from the effects of those diseases when he was discharged from the service, and that he has continued to suffer therefrom ever since that until the present time. That his disability is the result of diseases contracted in the service seems to be fully established. Examining Surgeon F. V. Burroughs, of Mauston, Wis., testifies:

"In my opinion the said Robert Patterson is one-half incapacitated for obtaining his subsistence by manual labor from disability resulting from erysipelas and chronic rheumatism."

The foregoing findings and conclusions are supported by the testimony of six witnesses besides the examining surgeon. Your committee therefore report in favor of the passage of said bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

LEWIS J. BLAIR.

Mr. LOWRY. I crave the indulgence of the committee to allow me to call up a short bill unanimously reported by the Committee on Invalid Pensions. It is the bill (H. R. 7500) to restore the name of Lewis J. Blair to the pension-roll, and will be found on page 49 of the Calendar.

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 restore to the pension-roll the name of Lewis J. Blair, late lieutenant-colonel of the Eighty-eighth Regiment Indiana Volunteers, subject to the provisions and limitations of the pension laws.

The bill was reported with the following amendment:

In line 4 strike out the word "restore to" and insert in lieu thereof the words "reinstate on."

Mr. LOWRY. Perhaps it will be in the interest of expedition and will allow other gentlemen to come in if I am permitted briefly to state the facts in the case in place of having the report read. This is a bill to reinstate General Blair as lieutenant-colonel on the pension-roll he having heretofore been allowed a pension. His name was dropped in consequence of a special examination and a report of a special examiner, *ex parte* in its character, where no opportunity was afforded the pensioner of being heard. That report was to the effect that his wounds had not been contracted in the service. On a full examination of the case the committee find the facts to be quite otherwise. They state that the evidence is full and satisfactory as to the fact that the injuries were received in the service, and that they are fully satisfied his name should not have been dropped from the pension-roll. They recommend his restoration. The amendment proposed is simply a slight verbal alteration.

The amendment was adopted.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

The report (by Mr. MATSON) in this case is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 372) to restore Lewis J. Blair to the pension-roll, having considered the evidence in the case, beg leave to report:

That claimant was mustered into the military service of the United States as captain of Company H, Eighty-eighth Regiment Indiana Volunteers, August 29, 1862; was subsequently commissioned major and lieutenant-colonel, and was honorably discharged June 7, 1865.

July 14, 1870, he was granted a pension of $20 per month for injuries of left side and ankle, received at the battle of Missionary Ridge, November 25, 1863.

November 29, 1876, his name was dropped from the pension-roll by order of the Secretary of the Interior, on the report of a special examiner of the Pension Office, on the ground that the disability for which the soldier was pensioned was not due to his military service.

The committee have examined this case very carefully, and find from the evidence of the colonel commanding the regiment at the battle of Missionary Ridge, and other officers present at this engagement, that Lieutenant-Colonel Blair was injured in his left breast, arm, side, and leg, by a bursting shell, and by being struck on the ankle by a spent ball; that he was treated in hospital for these injuries. The assistant surgeon of the regiment certifies to treatment for these injuries at the battle. The continuance of the disability from these injuries is shown by the testimony of the physicians who have treated him since his discharge. He is also shown to have been free from any disability prior to and at the time of being mustered into the military service of the United States.

The pension was originally granted by Commissioner of Pensions Bentley, after a personal examination of the evidence on file.

Your committee find in the evidence on file in this case, as well as that taken by the special examiner of the Pension Office, no sufficient reason for the action of the Commissioner in dropping the name of this soldier from the pension-roll, and therefore recommend the passage of the accompanying substitute bill.

MRS. ANN E. GRIDLEY.

Mr. WINANS, of Michigan. I ask unanimous consent to call up out of its order the bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley.

There being no objection, the bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Ann E. Gridley, a volunteer nurse in the late war, and pay her the sum of $25 per month from and after the passage of this act.

The Clerk commenced the reading of the report.

Mr. HEWITT, of Alabama [interrupting the reading]. I do not think it is necessary to read any more of the report. It may be printed in full in the RECORD. It presents only one question, whether or not we shall put nurses in the Army on the pension-roll. It is a new class.

Mr. BAGLEY. The gentleman will remember that we had several precedents of that kind last year.

Mr. HEWITT, of Alabama. Oh, yes.

The report (by Mr. WINANS, of Michigan) is as follows:

The Committee on Invalid Pensions, to whom was referred H. R. 7617, granting a pension to Mrs. Ann E. Gridley, report:

That said Mrs. Ann E. Gridley is a resident of Hillsdale, in the State of Michigan; that she commenced her work under the auspices of the Soldiers' Relief Association as a volunteer nurse in the spring of 1864, and was continuous in her patriotic services until the close of the war. She was not only an Army nurse but a disbursing agent of the association to aid the sick, wounded, and dying soldier, and provide special articles needed for his immediate relief.

The secretary of the association, Mr. T. Moses, says: "She was especially systematic and energetic in her methods, carefully examining her reports, as she came to me for funds and stores with which to prosecute her work."

And further: "I was personally cognizant of her work in the field and hospitals after the great battle of Cold Harbor. Perhaps her most important work was for the Andersonville prisoners as they languished in hospitals at Annapolis, after exchange. Her devotion to this most exacting and laborious duty nearly cost her her life. She contracted a fever from the contagion brought from Andersonville, from the effects of which she may never fully recover."

Dr. G. S. Palmer, late surgeon United States Volunteers, says: "She did

most excellent work among the sick soldiers at Annapolis. She contracted a severe fever and came near losing her life while in hospital service."

Dr. Bliss, brevet colonel (late surgeon), United States Army, says of her:

"As a volunteer nurse during the late war she was an efficient and faithful worker in the field and hospital. Her services were directed by good judgment and accomplished great good to the sick and wounded soldier."

Dr. Radcliff says:

"She served with efficiency at the United States general hospital at Annapolis during 1864 and 1865, especially during a severe outbreak of hospital fever, where she came near sacrificing her own life."

Dr. Heden Densmore says:

"Mrs. A. E. Gridley worked untiringly for the soldiers in the capacity of nurse during the war without compensation. Her labor was given over a large portion of time in various places with a heroism I have seldom seen equaled."

Dr. J. E. Dexter says:

"I knew Mrs. A. E. Gridley both in field and hospital as a volunteer nurse in the late war; none were more devoted and faithful. She merits special consideration from the Government."

D. T. Pierce, a member of the Michigan Relief Association, says:

"I can of my own personal knowledge state that no one rendered more valuable service than Mrs. Ann E. Gridley. Her present impaired health is undoubtedly the result of continual labor in the field and hospital."

E. W. Barber, reading clerk for several Congresses, and late Assistant Postmaster-General, says:

"She gave her whole time to the nursing and care of sick and wounded soldiers. No person from Michigan was more faithful, earnest, and devoted. Besides her personal and unpaid service she gave two boys to the service of her country—one to the Navy and the other to the Army, the latter entering the service at the age of 15 years, and remaining during the entire war. If there is anything on earth or in the loyal North that deserves consideration from the hands of the agents of the Government, it is Mrs. Gridley. She needs it to keep the wolf away from her door."

Harry H. Smith, the present efficient journal clerk of the House, says:

"I made the acquaintance of Mrs. Gridley in 1864, while a private in the Twenty-sixth Regiment of Michigan Infantry, on detail in this city, while assisting Dr. Tunnercliff, then Michigan military agent, looking after sick and wounded Michigan soldiers. Mrs. Gridley was similarly engaged; but did not confine her labors solely to Michigan soldiers, but assisted all sick and wounded Union soldiers to the extent of her ability."

Considering the above testimony, and in view of the further fact that her services were gratuitous, and that she has never received any compensation and is now poor and in ill-health, we recommend the bill do pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

CAROLINE TRECKELL.

Mr. PERKINS. I ask unanimous consent to take up out of its order the bill S. 929.

There being no objection, the bill (S. 929) granting a pension to Caroline Treckell was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized to place on the pension-roll, subject to the limitations of the pension laws, the name of Caroline Treckell, widow of Lieut. Greenbury Treckell, deceased, late of the Aubrey Cavalry Company, Kansas Militia.

Mr. PERKINS. I desire to make a brief statement in connection with this bill as the report of the House committee has not been published.

Mr. HEWITT, of Alabama. Is that bill on the Calendar?

Mr. PERKINS. It has passed the Senate, and was reported by the House committee this morning, but the report has not been printed.

Mr. MATSON. I understand that the bills reported this morning are now at the Printing Office as well as the reports accompanying them.

The CHAIRMAN. The bill is in the hands of the Clerk.

Mr. PERKINS. I will make a brief statement. This is an old widow lady. I desire to say a word to explain why she has not obtained a pension through the Department. Her husband had undertaken to organize a company, and had been commissioned lieutenant of the company by the governor of Kansas. But he was killed by Quantrell's guerrilla organization before he was mustered into the United States service. For that reason the widow has not been able to obtain her pension through the Pension Bureau. There is no question as to the facts, and they are as I have stated.

The bill has passed the Senate, and has been unanimously reported by the committee to this House. This claimant is an old lady, now supported by the charity of her friends, and I ask that the bill pass.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MRS. JENNIE E. JOHNSON.

Mr. HEPBURN. Mr. Chairman, I ask unanimous consent that the bill (H. R. 2002) for the relief of Mrs. Jennie E. Johnson be taken up.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Mrs. Jennie E. Johnson, the mother of Capt. Charles P. Johnson, deceased, late a captain on the retired-list of the Army of the United States, as a pensioner at the rate of $25 per month.

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

That claimant is the mother of Charles P. Johnson, who enlisted in the military service of the United States as a private in Company A, Seventeenth Regiment Iowa Volunteers, February 25, 1862, and was promoted successively first lieutenant and captain, and who was by special act of Congress approved February 21, 1868, retired as a captain, and died April 12, 1879, from the effect of wounds received at the battle of Big Black River.

The evidence in the case discloses the following facts:

He enlisted at Leon as a private in Company A, Seventeenth Volunteer Regiment of Iowa Infantry, and was mustered into United States service March 21, 1862, as first sergeant. Through natural efficiency and strict attention to duty he was promoted to the rank of second lieutenant September 4, 1862, and was commissioned as captain June 3, 1863, and was the only officer in the regular Army commissioned by special act of Congress.

In the same year, while leading his company in a charge at the Big Black River in the rear at Vicksburg, he was wounded by a minnie-ball passing horizontally from side to side through the body, between the rectum and the spinal column, tearing away a part of the former, fracturing a vertebræ of the latter, and injuring the spinal cord to such an extent as to paralyze the lower extremities. The hospital surgeon thought the case hopeless, but by request, and also thinking to perform the last kind act for a friend, the regimental surgeon came and dressed his wounds by drawing a silk handkerchief, one-half at a time, entirely through his body.

The next day he fell into the hands of the rebels and was transported in a cattle-car to Atlanta, where his mother, having heard of his condition, reached him some time afterward. He remained here until the occupation of the city by General Sherman, when he, with his mother, was sent to Saint Louis, Mo. The nature of his wounds finds no parallel in the medical records of either Europe or America. The only position he could assume was that of lying on his face, and for sixteen years he could not find relief from his sufferings in any other position. For years, upon eating tomatoes, blackberries, or any fruit having fine seeds, these would tear open his wounds afresh and the natural excrement of the body find three avenues of escape.

After the death of Captain Johnson his widow was granted a pension, which she continued to receive up to the time of her death.

The soldier left no children, and with the death of his widow there was no one left with a legal claim against the Government for pension.

It is shown by the evidence that the mother, who is the claimant in this case, nursed the soldier back to life; cared for and watched over him as only a mother could, and in her care and attention exhausted all her means in ministering to his wants. She is now old and infirm from the long years of constant watching over her soldier son, and is left without any means of support, and with no one to look to for support in her declining years. She is shown to be an estimable lady, and a pension is asked for her by Governor Sherman, governor of Iowa, and many other leading men of the State, and by all who are familiar with the long years of laborious devotion to and the great sacrifices of health and means made for her son, who by reason of his wounds received in battle for his country was more than a child again.

Your committee think this claim appeals with peculiar force to the equities of Congress, and confidently believe that a pension should be given claimant for the sacrifices she has made, not only of her health, but of the means that otherwise would have been ample for her maintenance in her old age, and therefore recommend the passage of the accompanying bill, amended, however, by striking out all after the words "United States," in line 7 of said bill, and inserting the following: "subject to the provisions and limitations of the pension laws."

The amendment reported by the committee was as follows:

In lines 7 and 8, strike out the words "as a pensioner at the rate of $25 per month" and insert the words "subject to the provisions and limitations of the pension laws."

The amendment was agreed to.

There being no objection, the bill as amended was laid aside to be reported to the House with a recommendation that it do pass.

EMMA O. ZEIGLER.

Mr. HILL. I ask unanimous consent for the consideration of the bill (H. R. 4878) granting a pension to Mrs. Emma O. Zeigler. General Robinson, the author of the bill, is no longer upon this floor, and I ask that the bill be considered now.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emma O. Zeigler, widow of W. A. Zeigler, late captain of Company —, First Regiment West Virginia Infantry Veteran Volunteers.

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

That claimant is the widow of William A. Zeigler, who enlisted in the military service of the United States as a private in Company B, First West Virginia Light Artillery Volunteers, August 5, 1861; was commissioned second lieutenant in Company I, Fifth Regiment West Virginia Volunteers, January 13, 1863; first lieutenant West Virginia Veteran Infantry Volunteers, September 5, 1864, and captain March 29, 1865, and was honorably discharged July 21, 1865.

September 20, 1869, soldier filed a declaration for pension, alleging that on or about August 5, 1864, near Middleburg, Md., while retreating from the enemy, and in command of Company I, Fifth West Virginia Volunteers, he received sunstroke.

April 20, 1876, the soldier died, pending the final adjudication of his claim. After the death of the soldier, Emma O. Zeigler, the widow, completed the claim, and was granted a pension up to the date of her husband's death. But her claim for pension as the widow of said soldier was rejected on the ground that the fatal disease of which the soldier died was not due to and was not a result of his military service.

Surgeon Hysell, of the Ninth Regiment West Virginia Volunteers, testifies, November 3, 1879:

"That he frequently prescribed for the soldier in the summer of 1864 for hemorrhoids, or piles, and chronic diarrhea, and as surgeon of the First West Virginia Volunteers he prescribed for the said officer on several different occasions during the winter of 1864 and 1865 for the same trouble, together with ulceration of the rectum; that after both officers were discharged from its service in 1865 they settled about ten miles apart, affiant at Wyandotte, W. Va., and the officer at Catlettsburg, Ky.; and that he frequently saw and prescribed for the said Zeigler during the following winter and the summer of 1866 for what he called his old trouble, and the officer appeared to be suffering with the same disease for which he had treated him while in the service."

A. Robb, M. D., testifies, May 27, 1876:

"That he attended soldier in his last illness; had been his family physician for three years; he died April 20, 1876, of what he supposed was hemorrhoids, or piles, but shown by *post mortem* examination to be cancer of rectum, involving lower part of spinal cord, sciatic nerve of left side and the bladder; that he treated soldier March 17, 1876, for what he considered piles; soldier died April 20, 1876; a *post mortem* examination made eight hours after death showed the disease to be of a cancerous nature."

Captain Ewing swears to an intimate acquaintance with the soldier from 1856 to 1870; they occupied the same room as an office from 1865 to 1870, and knows soldier was frequently complaining of piles and under treatment for the same by Dr. Pugh, who was a physician boarding in the soldier's father's family; affiant filed soldier's application for pension and did not allege piles because DR. Pugh was dead and they could not prove medical treatment.

Alcinous Carnahan swears he was ward-master in the regimental hospital of the Fifth West Virginia Volunteers, and had a personal knowledge of the fact

that Lieutenant Zeigler was afflicted while in the service with piles, and that from 1865 to 1870 soldier complained of piles.

Colonel Enochs, of soldier's regiment, swears that soldier was treated for piles in 1864, during the summer campaign in the Shenandoah Valley of Virginia, and from that time on to the date of his discharge in 1865.

James C. Ely testifies that he is a druggist in the town of Catlettsburg, Ky., and sold medicines to the soldier frequently during the year 1865, and on to 1870, which he desired for piles.

This case was investigated by a special examiner of the Pension Office in 1882, and the testimony thus taken is very voluminous and conflicting. In submitting the evidence in the case the special examiner says:

"I also believe that William A. Zeigler contracted piles in service, and that they continued to slightly affect him up to death."

It is shown by the evidence that the widow has not remarried, and that the soldier abandoned her a few years before his death, being at the time in fear of arrest for having used money belonging to an insurance company. The soldier located at Blanchester, Ohio, where he assumed the name of Avery, and July 19, 1871, was married to Miss Alice Jerrall, with whom he lived until the date of his death, April 20, 1876; and that ten children were the result of this marriage. During the time he was living with this woman at Blanchester, Ohio, he kept up a correspondence with and sent small sums of money to his lawful wife at the town of Catlettsburg, Ky., in which he impressed her he could not return home by reason of his liability to arrest for the use of money belonging to the insurance company as aforesaid. It is shown conclusively that no divorce proceedings were ever had by the soldier or claimant, and the legal marriage of claimant is fully established. Your committee find from the evidence in the case that the soldier's death was due to the disability contracted in the military service, and that his legal widow, which is the claimant in this case, is entitled to a pension, and therefore recommend the passage of the accompanying bill.

Mr. MATSON. Mr. Chairman, I ask that this bill be laid aside to be reported favorably to the House. I wish to state the reason why I make that request. When the bill was up before General Gibson made some objection to it, but he came to me last Friday night, after the committee had risen and we had gone into the House, and stated that he had investigated the matter, and that after that investigation instead of having any objection to the bill he wished to have it pass.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

ELIZABETH DAVIS.

Mr. WILSON, of Iowa. I ask unanimous consent to call up the bill (H. R. 457) granting a pension to Elizabeth Davis.

There being no objection, the committee proceeded to consider the bill; which 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 Elizabeth Davis, widow of Hannibal B. Davis, late captain of Company K, Fourth Regiment Missouri State Militia, to date from the death of said Hannibal B. Davis.

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

The claimant, Elizabeth Davis, is the widow of Capt. Hannibal B. Davis, late a captain of Company K, Fourth Regiment of Missouri State Militia. This bill was favorably reported by the Committee on Invalid Pensions in the Forty-seventh Congress. As the report referred to is a very fair résumé of the points in the case, your committee herewith incorporate the same into their report, namely:

[House report No. 593, Forty-seventh Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the (bill H. R. 315) granting a pension to Elizabeth Davis, having had the same under consideration, respectfully report:

We find from the papers on file in the original case at the Pension Office, and those presented to your committee, that the petitioner is the widow of Hannibal B. Davis, who was a captain of Company K, Fourth Regiment Cavalry, Missouri State Militia; that he was mustered September 10, 1862, and resigned April 8, 1864. He was killed by a band of guerrillas at Tipton, Mo., September 1, 1864, a few months after his resignation from the service. The evidence shows that Captain Davis had made himself particularly obnoxious to the guerrilla forces in the State of Missouri during his service as captain of the Fourth Cavalry, and threats had been made repeatedly that when opportunity occurred he should be killed.

Having resigned from the service and located at Tipton, he was pursuing his avocation when notice was given of an impending raid by guerrillas upon the town. A force of home-guards was quickly organized and placed in charge of the captain, who did valiant service in repelling the invasion of the guerrilla band, but was unsuccessful in staying its progress. He, with others, was captured, and as soon as he was identified was placed in close custody, his comrades being released. He was carried across the county line into Cooper County, Missouri, where he was shot and killed. This case was rejected by the Pension Office on the ground that the officer was not in the service of the United States and in line of duty at the time of his death.

Your committee understand that under the law this widow is not pensionable, but there are equities of the case deserving of attention and recognition by Congress. The deceased officer for two years had been a gallant soldier in the service of the Government, and in that service had incurred the displeasure of the many bands of the enemy which were prowling through the State of Missouri at the time. The homes of himself and other Union men were threatened with attack on account of the action he had taken in the past, and hastily donning his former uniform he led his neighbors to repel the incursion of the enemy in defense of his home, and on account of his former service to the United States he was killed, and his services were forever lost to his wife. She claims, and your committee is of the opinion justly and equitably, the recognition of his services by the Government in the payment to her of a pension, the same as if he had been regularly upon the muster-rolls of the United States Army. An act granting him a pension passed the House in February, 1881, but failed to be reached in the Senate,

Your committee recommend that the bill be passed.

Your committee indorse all the statements of the foregoing report as fully borne out by the record proofs, and therefore recommend that the pending bill do pass.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

SARAH M. BISSELL.

Mr. HEWITT, of Alabama. I ask unanimous consent to take up the bill (H. R. 6940) granting a pension to Sarah M. Bissell.

There being no objection, the committee proceeded to consider the bill; which 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 Sarah M. Bissell, widow of Commodore Simon B. Bissell, late of the United States Navy, and pay her a pension of $50 per month from and after the passage of this act.

The report (by Mr. HEWITT, of Alabama) was read, as follows:

The committee have given Mrs. Bissell's case thoughtful consideration, and are convinced that no more deserving claim has come before Congress. Mrs. Bissell is the widow of the late Commodore Simon B. Bissell, who gallantly and faithfully served his country through a long and honorable career in the Navy, and now in utter helplessness she appeals for a pension barely sufficient to keep her from actual want. And in this connection the committee calls attention to the following letter from that gallant patriot Admiral David D. Porter; it tells its own eloquent story. The committee makes the said letter a part of this report:

OFFICE OF THE ADMIRAL, *Washington, D. C., June* 19, 1884.

MY DEAR SIR: Please accept my warmest thanks for your kind and encouraging letter regarding the pension of Mrs. Bissell.

I regret very much to hear that there is not a prospect of getting a bill through for the relief of Mrs. Bissell during the present session. The distress of this interesting family is the most dreadful that has come to my knowledge for many years.

It can scarcely be conceived that a person once holding Mrs. Bissell's position as the wife of a commodore in the Navy could be reduced to such poverty. Mrs. Bissell and her daughter have not a cent in the world. They have been obliged to sell every little article of value to purchase food. Fortunately they have a small house of their own in which they can hide their grief and their poverty.

I never knew until day before yesterday their actual destitute condition, and I yesterday sent them the first square meal they have had for two weeks.

Commodore Bissell, when he was retired, took his family abroad to a cheap place, where he was enabled to lay up a little from year to year. He put the money in the hands of a relative of his wife's to invest for her. After the commodore's death his family returned to America to find that all their savings which they had sent home had been made way with, and that absolute poverty stared them in the face. Their own relatives are unwilling to help them by the loan of even a dollar.

How they will get along God only knows, unless they can get this pension.

It is not right that the family of an officer who so faithfully performed his duty as did Commodore Bissell should be suffering such extreme poverty from no fault of their own.

I hope you will excuse me for troubling you with this long story; but as you have interested yourself in the matter, and it comes under your cognizance, I thought it my duty to state to you the exact condition of this family. If anything could be done for them this session, it would be an act of mercy.

I am sure you have sympathy enough for this case to excuse my intrusion on your time, and I am glad to know that you consider the claim of Mrs. Bissell a just one.

I am about the only one who interests himself in the cases of the wives of old officers left by the death of their husbands in distress. I do so because I know their merits and demerits, and must be the last one to recommend any person for a pension who did not actually deserve it. These good people, Mrs. Bissell and her daughter, deserve more than ordinary consideration. Thanking you for your courtesy in finding time to write and give me such encouraging news for the future,

I have the honor to remain, very respectfully and truly yours,

DAVID D. PORTER, *Admiral.*

Hon. G. W. HEWITT, M. C.,
Chairman Committee on Pensions,
United States House of Representatives.

The committee earnestly recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

HECTOR W. SUMMERS.

Mr. HALSELL. I ask unanimous consent to take up for present consideration the bill (H. R. 7501) granting a pension to Hector W. Summers.

There being no objection, the committee proceeded to consider the bill; which 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 Hector W. Summers, of Bucksville, Logan County, Ky., late a private in the Twenty-sixth Regiment Kentucky Volunteers, on the pension-roll, subject to the provisions and limitations of the pension laws.

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

That claimant enlisted in the military service of the United States as a private in the Twenty-sixth Regiment Kentucky Volunteers the latter part of December, 1861, at Calhoun, McLean County, Kentucky. He was regularly enrolled and was paid one month's pay by John MacMorton, and was furnished a uniform and arms and assigned to duty. Colonel Burbridge was in charge of the camp of rendezvous, and Major Davidson of the Twenty-sixth Kentucky Regiment. In a few days after being enrolled he was detailed for recruiting service and ordered to Bouyer's Ferry, on Green River. While on duty at this place he was captured by a party of confederate soldiers, under command of John M. Porter, late Commonwealth's attorney for the third judicial district of Kentucky, and now deceased. He was taken to Bowling Green, Ky., and confined for about six weeks, when, on the evacuation of that place by the confederates, he was removed to Salisbury, N. C., where he was confined in prison for more than six months, at the expiration of which time he was paroled and sent home, and reported to Colonel Maxwell, then in command of the Twenty-sixth Regiment Kentucky Volunteers. On reporting to the colonel of his regiment for duty he was told by that officer to go home, as he could not live in camp; to live at home if he could.

It is shown that the soldier was suffering from chronic diarrhea at the time of his release from confinement in the confederate prison, and from heart disease, with which disabilities he has continued to suffer ever since; that he is now an old man, being 67 years of age, and broken down in health, as a result of his confinement in rebel prisons.

The fact of his military service is clearly established, as well as that of his capture in the line of duty; the latter being shown by the testimony of John M. Porter, commanding the confederate forces who captured him.

His application was rejected by the Pension Office solely on the ground of his not being mustered into the military service.

Your committee find from the evidence that the soldier was regularly enrolled

and assigned to duty, and that he was detailed as a recruiting officer and was on duty as such at the time of being captured, and that his long confinement in confederate prisons was the cause of the permanent disability from which he is now suffering, and that he should be pensioned by the Government in whose service he lost his health, and therefore report a bill to place him on the pension-roll, and recommend its passage.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

RACHEL SMITH.

Mr. JOSEPH D. TAYLOR. I ask unanimous consent to take up for present consideration the bill (H. R. 5813) granting a pension to Rachel Smith.

There being no objection, the committee proceeded to consider the bill; which 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 Rachel Smith, dependent mother of Andrew M. Smith, late a private in Company E, Twenty-sixth Regiment Ohio Volunteer Infantry.

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

Mrs. Rachel Smith, as appears from the papers accompanying said bill, was the dependent mother of Andrew M. Smith, who enlisted in Company E, Twenty-sixth Ohio Volunteer Infantry, on the 19th day of June, 1861, and served until July 25, 1865, when he was honorably discharged from the service; that during the entire term of his said service he was the sole and only support of his mother, said Rachel Smith, as he had been before he enlisted in the service; that after his discharge from the service he continued to support his mother until he was intermarried with Miss Mary E. Work, when she became an inmate of his family, and so continued until his death; that on the 8th day of February, 1873, a pension at the rate of $4 per month, beginning from the 9th day of December, 1872, was granted to said Andrew M. Smith by the Commissioner of Pensions, Hon. J. H. Baker; that on the 9th day of February, 1872, said pension was increased to $24 per month upon the order of said Commissioner of Pensions; that on the 5th day of May, 1876, said Andrew M. Smith died; that thereupon his widow, Mary E. Smith, applied for a widow's pension, which was granted to her from and after the death of her said husband, which pension she divided with the said Andrew M. Smith's mother, said Rachel Smith; that on the 17th day of July, 1880, the widow of said Andrew M. Smith, Mary E. Smith, remarried, in consequence whereof said pension lapsed. Therefore, the said dependent mother, Rachel Smith, prays that she may be granted a pension as said dependent mother.

Your committee, in view of the above-recited facts, as shown by the papers, recommend the passage of said bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ELIZA SLUSS.

Mr. WOLFORD. I ask unanimous consent to take up for present consideration the bill (H. R. 3605) granting a pension to Eliza Sluss.

There being no objection, the committee proceeded to consider the bill; which 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 Eliza Sluss, widow of John M. Sluss, late captain of Company A, Third Indiana Volunteers (serving in the war with Mexico), subject to the provisions and limitations of the pension laws.

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

Eliza Sluss, the claimant, is the lawful widow of John M. Sluss, deceased, who was captain of Company A, Tnird Infantry Indiana Volunteers, in the war with Mexico, and who was pensioned for injuries received in the line of duty, said pension bearing date of August 14, 1849, at the rate of $13.33½ per month. That his pension was suspended in 1850, reinstated, and increased to $20 per month in 1855, and again suspended in 1864. The case was referred to Dr. Hood, medical referee of the Pension Office, in 1874, who went to the home of Captain Sluss, and made a personal examination of the case.

Dr. Hood, after a careful consideration of the evidence and an examination of the physical condition of Captain Sluss, says:

"I declare it to be most unqualifiedly my opinion that wrong was done to Captain Sluss when payment of his pension was suspended. I recommend resumption of payment at the rate paid at date of suspension, for injury to lower part of abdomen and results. I may be permitted to add that I entertain no doubt at all as to the perfect justice of this recommendation, something which I can not always say."

On this recommendation of the medical referee of the Pension Office, Hon. Columbus Delano, then Secretary of the Interior, says:

"In view of this opinion, I deem it my duty to direct the restoration of Captain Sluss's name to the pension-roll, and hereby authorize the same to be done. His pension will be resumed from the date of suspension in 1864, and at the rate formerly paid."

On this order from the Secretary of the Interior, Captain Sluss's name was again placed on the pension-roll, he being paid for the full time that he was unjustifiably deprived of his rights, and he continued to draw a pension of $20 per month until his death, February 25, 1879. The immediate cause of his death was (in the opinion of Dr. Maxwell, the attendant physician) acute bronchitis.

He says, however, that:

"I have no doubt but that the general debility resulting from the disease for which he was drawing a pension and that as well as debility from age were important factors in bringing about the fatal termination."

The claimant, Eliza Sluss, widow aforesaid, is now old and feeble and is in need, and we deem it but just and right that her name be placed on the pension-roll; therefore recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

HOLDEN COOK.

Mr. MORRILL. I ask unanimous consent to take up the bill (H. R. 7707) to pension Holden Cook. The report in this case is in the hands of the Printer; but if any gentleman desires I can state briefly the circumstances of the case.

There being no objection, the committee proceeded to consider the bill; which 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 Holden Cook, late a private in Company A, Thirty-first United States Infantry.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JASPER J. HENRY.

Mr. PEEL. I ask unanimous consent to take up the bill (H. R. 3074) granting a pension to Jasper J. Henry.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the name of Jasper J. Henry be placed on the pension-roll of invalid persons, on account of wounds received while acting as guide and pilot for the First Arkansas Cavalry Volunteers in the war of the rebellion, subject to the restrictions and limitations of the pension laws of the United States.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MARGARET A. BERRY.

Mr. BAGLEY. I ask unanimous consent to take up the bill (H. R. 5925) granting a pension to Margaret A. Berry.

There being no objection, the committee proceeded to consider the bill; which 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. Berry, widow of William M. Berry, late a private in Company I, Tenth Indiana Cavalry.

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

The claimant, Margaret A. Berry, is the lawful widow of William M. Berry, who enlisted as a private soldier in the Eighteenth Indiana Infantry in the year 1861, and afterward was promoted to a lieutenant, and resigned in 1864, returning to his home and family only to remain a short time (about sixty days), when he again enlisted, this time in Company I, Tenth Indiana Cavalry. His captain, James E. Mathers, testifies—

"That the said Berry was a man somewhat addicted to drink, but nevertheless was an excellent soldier and a man of fine business qualifications, and with kind treatment seemed to be very manageable. On account of superior business tact and qualifications, he was detailed by George R. Swallow, colonel commanding the regiment, as acting commissary sergeant of the regiment, the duties of which post he discharged with credit to himself and regiment while Colonel Swallow retained command."

Afterward Maj. Thomas G. Williamson had temporary command, and he reduced Berry to the ranks by a public order. The disgrace from this seemed to bear so heavily on the soldier's mind that he never seemed the same man afterward.

The evidence declares the fact that about 4 o'clock on the morning of the 25th of July, 1865, Berry was found dead about twenty feet from his tent with a gunshot wound through the head. The evidence also discloses the fact that for about ten days previous to this time Berry was insane, and the said wound was supposed to have been inflicted by his own hand.

Captain Mathers further testifies in the following language:

"While I believe that strong drink may have been one of the causes leading him to insanity, I at the same time believe that the mortification and disgrace felt on account of the public order referred to had much more to do with bringing on insanity than anything else."

The evidence shows that the said Berry was a sound man when he entered the service, and that he was a good soldier, and that he served faithfully for about four years. The claimant is very poor and oftentimes in want for the necessaries of life, and is now well along in years.

In view of all the circumstances, your committee think this a deserving case, and recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JACOB FUNKHOUSER.

Mr. WILSON, of West Virginia. I ask unanimous consent to take up the bill (H. R. 2872) granting a pension to Jacob Funkhouser.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and instructed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob Funkhouser, of the county of Preston, West Virginia, a private soldier of the war of 1812.

The report (by Mr. JONES, of Texas) was read, as follows:

The said Jacob Funkhouser is shown by the records of the Interior Department to have enlisted in Capt. Christian Core's company, Virginia Militia, and served therein from February 20 to March 4, 1815. He received a land-warrant for one hundred and sixty acres under the act of 1855, but his claim for pension was rejected July 30, 1878, by the Pension Office, on the ground that his service was rendered subsequent to the treaty of peace. Applicant is now in his ninety-fifth year, poor and dependent. While excluded from a pension by a strict construction of the law, yet inasmuch as he enlisted, and doubtless served part of his time before the news of the treaty of peace was received in the remote northwestern section of Virginia, in which he then resided, the committee deem his case a meritorious one, and recommend that the above bill pass.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

CORNELIA V. BLACKMAN.

Mr. PETERS. I ask unanimous consent to take up out of its order the bill (H. R. 7571) granting a pension to Cornelia V. Blackman. This bill has been reported by the Committee on Invalid Pensions, and is on the Calendar, but the report is still in the hands of the Printer.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized to place the name of Cornelia V. Blackman, widow of Harvey C. Blackman, late a second lieutenant in the Eighth Kansas Volunteer Infantry, on the pension-roll, and grant her a pension from the date of the passage of this act, subject to the pension laws.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

ABBY P. ARNOLD.

Mr. MATSON. I ask unanimous consent to take up for present consideration a Senate bill reported to-day from the Committee on Invalid Pensions—the bill (S. 764) granting an increase of pension to Abby P. Arnold. This bill, like a great many others which we have passed, proposes to increase the pension of the widow of a general officer.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed, subject to the provisions and limitations of the pension laws, to increase the pension of Abby P. Arnold, widow of the late General Richard Arnold, United States Army, from $20 to $50 per month; said increase to take effect from and after the passage of this act.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

MARION D. EGBERT.

Mr. MATSON. I ask unanimous consent to have taken up for consideration at this time the bill (H. R. 2975) granting a pension to Marion D. Egbert. This bill has been once considered, when objection was made by the gentleman from Virginia [Mr. GEORGE D. WISE]. The bill was introduced by the Delegate from Washington Territory [Mr. BRENTS], from whom I have received a letter stating that he is confined to his house by reason of a fractured ankle, and asking that the bill be passed. I am also requested by the Delegate-elect from Washington Territory, Mr. Voorhees, to look after this matter. Both of these gentlemen assure me that the beneficiary is a very worthy person and the claim a very meritorious one.

I will also state that the gentleman from Virginia [Mr. GEORGE D. WISE] desires to withdraw any opposition he may have manifested heretofore to the bill.

There being no objection, the committee proceeded to consider the bill; which 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 Marion D. Egbert, late of Company K, Eighty-sixth Regiment Ohio Volunteers, for pension.

The report (by Mr. JOHN S. WISE) was read, as follows:

Marion D. Egbert was a corporal in Company K, Eighty-sixth Regiment Ohio Volunteer Infantry, and in service in September, 1863, at Cumberland Gap. He was detailed to act as ordnance-sergeant. One day in the latter part of November, 1863, while he and the men working under his orders were sunning the ammunition in the magazine, a comrade lit a port-fire, which communicated with damp powder on the ground, and would in a moment have produced a fatal explosion of a large amount of cannon ammunition. Egbert, seeing the danger, and that he could not flee from the explosion, threw himself across the line of burning powder and broke the trail, thus preventing the explosion. The fire burnt his blouse and pants quite severely, and the fright, shock, and fire produced a partial deafness, loss of sight, and paralysis in the left side.

The Pension Office required proof of the soldier's condition from a surgeon and two comrades. These Egbert frankly states he can not furnish, because, as the ill effects of the fright and burning did not culminate at once, he was not treated in hospital, and because those present when the accident occurred were men detailed from a Tennessee regiment, whose names he did not know and does not now know. But he does prove by a comrade that he saw him a few days after the explosion suffering severely. He proves by many of his acquaintances that he was sound prior to his going into the service, and has not been sound since. He proves a good character as a man, and his physician testifies that he has been attending him off and on since 1864 for partial paralysis of his tongue and left side.

We are satisfied of the merits of this case, although it falls short of the degree and character of testimony required at the Pension Office. We recommend passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JOHN W. ROBSON.

Mr. JONES, of Wisconsin. I ask unanimous consent to take up for present consideration the bill (H. R. 3833) for the relief of John W. Robson.

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 limitations and provisions of the pension laws, arrearages included, the name of John W. Robson, late a private in the Sixth Wisconsin Battery, at the same rate as other soldiers of similar disability.

Mr. BAGLEY. Has this bill been reported by the Committee on Invalid Pensions?

Mr. JONES, of Wisconsin. It has been.

Mr. BAGLEY. With arrears?

Mr. JONES, of Wisconsin. I think not with arrears.

Mr. HEWITT, of Alabama. I am oppposed to this bill, and can not allow it to go through. I object to its consideration.

The CHAIRMAN. The request of the gentleman from Wisconsin is objected to.

JOHN O. GARDNER.

Mr. MORRILL. I ask unanimous consent to take up out of its order the bill (H. R. 7178) granting an increase of pension to John O. Gardner.

There being no objection, the committee proceeded to consider the bill; which was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of John O. Gardner, formerly of Company A, Ninth Maine Volunteers, to $20 per month.

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

Claimant enlisted September 22, 1861, in Company A, Ninth Maine Infantry, and was honorably discharged August 4, 1865, having served faithfully for nearly four years. December, 1879, he applied for a pension, alleging that about the 18th of July, 1863, he was injured and wounded by a ball from the enemy's lines, which struck in his cartridge-box and threw him violently to the ground, causing injury to his spine and back. This occurred near Fort Wagner during the siege of that fort. Also wounded in the hand August 22, 1863; also on the 20th day of May, 1864, he was wounded in the shoulder by a ball during an attack by the confederate forces at Bermuda Hundred, Va.

On account of these wounds he was transferred to the Veteran Reserve Corps. He was allowed pension for the gunshot wound of right shoulder at rate of $2 per month, but his claims for the other and far more serious injuries were not allowed, because he was unable to show medical treatment in service and at time of discharge.

Dr. A. G. Peabody, who treated the soldier from 1865 to 1867, is dead, and his testimony can not be had. The hospital records say, "was wounded severely in shoulder at Bermuda Hundred, May 20, 1864," but do not mention his other injuries.

Lieut. S. A. Doten testifies:

"The army was retreating, and a bullet from the enemy's gun struck the cartridge-box of applicant, which he had thrown back across the small of the back where the injury was received. This was, as near as affiant can recollect, about July 18, 1863."

Affiant says he was personally present and speaks from personal knowledge of the facts.

Several of claimant's old neighbors testify that when he returned from the service he was so injured in the back that he was unable to resume his work in the mills. Claimant testifies that he was treated for the wound in the back by Surgeon Delon H. Abbott. Dr. Abbot says he remembers treating applicant, but can not recall the particulars, and is unable to state what he treated him for.

Dr. D. W. Lewis testifies:

"That he has known applicant intimately since 1871; that during all that time he was suffering more or less from affection of the spine, and was disabled at least three-fourths. Have treated said John Gardner for injury to the spine, said to be caused by gunshot striking the cartridge-box, which seems to have caused concussion of the spine. Has been entirely unable to work at his trade for seven weeks."

Dr. A. M. Vail testifies that he treated applicant from 1878 to 1880, for weak back, which he diagnosed as "chronic spinal congestion," and that he was disabled at least three-fourths.

Dr. E. W. Bliss, examining surgeon at Hiawatha, also speaks of the injury to the back, and rates it at one-half disability.

There seems to be little reason to doubt the origin and continuance of the disability, and yet it is not as clearly established as the rigid rules of the Pension Office require. The soldier was three times wounded on the battlefield. He is unable to perform manual labor, and has a family dependent upon his daily labor for support. Your committee recommend the passage of the bill.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

Mr. MATSON. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BAGLEY having taken the chair as Speaker *pro tempore*, Mr. STOCKSLAGER 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 various recommendations.

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. 6965) granting a pension to David T. Dudley;
A bill (H. R. 7026) granting a pension to Jeremiah P. Swatzell;
A bill (H. R. 7177) granting a pension to William H. Kinman;
A bill (H. R. 4458) granting a pension to Harlan Jackson;
A bill (H. R. 2138) granting a pension to Martha Angell;
A bill (H. R. 542) granting a pension to Samuel Hanson;
A bill (H. R. 6798) granting a pension to Lloyd W. Hixon;
A bill (H. R. 6966) granting a pension to Wealthy W. Seavey;
A bill (H. R. 7373) for the relief of Sarah A. Burchfield;
A bill (H. R. 7374) to restore William S. Ray to the pension-roll;
A bill (H. R. 6018) increasing the pension of George Tapp;
A bill (H. R. 1759) granting a pension to Robert Patterson;
A bill (H. R. 7617) granting a pension to Mrs. Ann E. Gridley;
A bill (H. R. 4878) granting a pension to Emma O. Zeigler;
A bill (H. R. 457) granting a pension to Elizabeth Davis;
A bill (H. R. 6940) granting a pension to Sarah M. Bissell;
A bill (H. R. 7501) granting a pension to Hector W. Summers;
A bill (H. R. 5813) granting a pension to Rachel Smith;
A bill (H. R. 3605) granting a pension to Eliza Sluss;
A bill (H. R. 7707) to pension Holden Cook;
A bill (H. R. 3074) to grant a pension to Jasper J. Henry on account of wounds received while acting as guide for the First Arkansas Cavalry Volunteers in the war of the rebellion;
A bill (H. R. 5925) granting a pension to Margaret A. Berry;
A bill (H. R. 2872) granting a pension to Jacob Funkhouser;
A bill (H. R. 7571) granting a pension to Cornelia V. Blackman;
A bill (H. R. 2975) granting a pension to Marion D. Egbert; and
A bill (H. R. 7178) granting an increase of pension to John O. Gardner.

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. 4055) granting a pension to Sarah Tyler;

A bill (H. R. 6775) granting a pension to Edward Wilcox;

A bill (H. R. 6982) granting a pension to W. H. H. Coleman;

A bill (H. R. 4605) granting a pension to Ellen Edmiston;

A bill (H. R. 2646) granting a pension to Eliza Warr, widow of Isaac Warr, late of Company F, One hundred and fourteenth Regiment Pennsylvania Volunteers;

A bill (H. R. 5146) granting a pension to Jesse C. Buck;

A bill (H. R. 5387) granting a pension to Amos Stroh;

A bill (H. R. 7500) to restore the name of Lewis J. Blair to the pension-roll;

A bill (H. R. 2002) for the relief of Mrs. Jennie E. Johnson; and

A bill (H. R. 7094) granting a pension to Lemuel M. Bartlett (title amended by striking out "Lemuel" and inserting "Samuel").

Senate bills of the following titles, reported from the Committee of the Whole House without amendment, were severally ordered to a third reading, read the third time, and passed:

A bill (S. 764) granting an increase of pension to Abby P. Arnold; and

A bill (S. 929) granting a pension to Caroline Treckell.

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 40 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. BAYNE: Petition for the speedy passage of Senate bill 2169—to the Committee on Military Affairs.

By Mr. BALLENTINE: Petition of Joseph Townsend, of Giles County, Tennessee, asking for compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

By Mr. CARLETON: Petition of citizens of Louisiana, for appropriation for a public building at New Orleans—to the Committee on Appropriations.

By Mr. FINDLAY: Memorial of business men of Baltimore, Md., in behalf of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. GUENTHER: Petition of citizens of Lodi, Wis., praying for the immediate passage of House bill 6990, granting a pension to John Mortar, jr.—to the Committee on Invalid Pensions.

By Mr. HOLMAN: Petition of W. H. Quin and 39 others, merchants of Boston and other cities, praying for the passage of the Brewer bill to regulate the commerce between the States, pertaining to commercial travelers—to the Committee on Commerce.

By Mr. HOWEY: Resolutions of the executive committee of the State board of agriculture of New Jersey, asking for the passage of House bill for the establishment of agricultural experiment stations—to the Committee on Agriculture.

By Mr. LIBBEY: Petition of Virginius Freeman, asking that his political disabilities be removed—to the Committee on the Judiciary.

By Mr. B. W. JONES: Petition of O. S. Montz and others, compositors on the CONGRESSIONAL RECORD, asking relief—to the Committee on Labor.

Also, petition of John Bascom, president, and of the faculty of the Wisconsin State University, in favor of bill establishing national experiment stations—to the Committee on Agriculture.

Also, memorial of the Maritime Association of the port of New York, in favor of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. KING: A bill appropriating $5,000 for a survey of Little River, in the State of Louisiana—to the Committee on Rivers and Harbors.

By Mr. McMILLIN: Petition of O. S. Montz, R. P. Fithian, and 64 others, laborers on the RECORD work of the Government Printing Office, for relief—to the Committee on Labor.

By Mr. MILLARD: Petition of O. S. Montz and others, laborers on the RECORD work of the Government Printing Office, for relief—to the same committee.

Also, petition of T. G. Rich and others, in favor of the Potter refunding bill—to the Committee on Ways and Means.

Also, petition of 23 business men and firms, representing the iron-ore producing and transporting interests of the East, against the Spanish treaty—to the same committee.

By Mr. MILLER: Petition of citizens of the Allegheny Valley, Pennsylvania, in favor of liberal appropriations for the improvement of the Allegheny River—to the Committee on Rivers and Harbors.

By Mr. MITCHELL: Petition of Sherman B. Warne and others, asking for increase of widows' pensions—to the Committee on Pensions.

By Mr. MURPHY: Petition of citizens of Jackson County, Iowa, asking for increase of widows' pensions—to the same committee.

By Mr. PARKER: Petition of Sumner L. Hazen and others, of Franklin County, New York, for increase of widows' pensions—to the same committee.

By Mr. PAYNE: Petition of 325 citizens of Allegheny, Pa., in favor of the improvement of the Alleghany River and its tributaries—to the Committee on Rivers and Harbors.

Also, petition of 649 business men of Allegheny, Pa., in favor of the improvement of the Alleghany River and its tributaries—to the same committee.

By Mr. PIERCE: Petition of G. C. Ferris, of Gibson County, Tennessee; of William Erwin, of Gibson County; of L. K. Gillespie, heir of John C. Gillespie, deceased, of Gibson County; of W. W. Hutchinson, administrator of Gillam Jackson, deceased, of Obion County; of N. J. Heathcock, of Gibson County; and of Margaret A. Talley, Joseph M. Talley, H. A. Talley, heirs of Benjamin F. Talley, deceased, of Gibson County, asking compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

By Mr. OSSIAN RAY: Petition of James W. Sanders and 20 others, for removal of charge of desertion from Sewell W. Piper, late private in Company C, Twelfth New Hampshire Volunteers—to the Committee on Military Affairs.

By Mr. SENEY: Memorial of A. N. Zevely & Son on letting of mail contracts—to the Committee on the Post-Office and Post-Roads.

By Mr. SPOONER: Petition of Manufacturing Jewelers' Board of Trade of Providence, R. I., for passage of Lowell bankruptcy bill as amended by Senate—to the Committee on the Judiciary.

By Mr. TUCKER: Petition of James Albert Bonrack—to the Committee on Patents.

By Mr. WILLIS: Petition of Merchants' National Bank of Louisville and others, in favor of the Potter refunding bill—to the Committee on Ways and Means.

By Mr. E. B. WINANS: Memorial of the Milwaukee Chamber of Commerce relative to harbor improvements at Grand Haven, Ludington, and Manistee, in the State of Michigan—to the Committee on Rivers and Harbors.

By Mr. YOUNG: Petition of Indiana E. Hughes, of Shelby County, Tennessee, and of George T. Taylor, of Tipton County, Tennessee, asking compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

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. ALEXANDER: Of citizens of Sullivan County, Missouri.

By Mr. BAGLEY: Of citizens of Ulster and Greene Counties, New York.

By Mr. BOYLE: Of citizens of Greene County, of Westmoreland County, of Fayette County, and of Greene County, Pennsylvania.

By Mr. W. W. BROWN: Of 121 citizens of McKeon County, of 132 citizens of Tioga County, and of 72 citizens of Rixford, Pa.

By Mr. J. M. CAMPBELL: Of citizens of Somerset County, Pennsylvania.

By Mr. COOK: Of C. P. Kintz, and 150 others, of Clyde, Iowa.

By Mr. CURTIN: Of citizens of Centre County, Pennsylvania.

By Mr. CUTCHEON: Of citizens of Reed City, of Fremont, and of Bailey, Mich.

By Mr. ELLWOOD: Of 9 citizens of Boone County, of 94 citizens of Cary Station, McHenry County; of 63 citizens of Hebron, McHenry County, and of 63 citizens of De Kalb County, Illinois.

By Mr. FUNSTON: Of citizens of Gardner, Kans.

By Mr. T. J. HENDERSON: Of Silas F. Thayer and 71 others, of Lee County; of N. A. Lathrop and 91 others, of Bureau County; of Truman Culver and 73 others, of Whitesides County, Illinois.

By Mr. HILL: Of Thomas Clague and 42 others, and of W. J. Bailey and 133 others, of Wood County, Ohio.

By Mr. HOUK: Of 130 citizens of Jefferson County, Tennessee.

By Mr. KLEINER: Of 125 citizens and ex-soldiers of Perry County, Indiana.

By Mr. LAMB: Of citizens of Waynetown, of Harmony, of Terre Haute, of Martz, of Bowling Green, and of Independence, Ind.

By Mr. LE FEVRE: Of Enos Betchel and 104 others, ex-soldiers and citizens of Herring; and of J. N. Heitzler and 124 others, ex-soldiers and citizens of Celina, Ohio.

By Mr. MATSON: Of C. D. Holdren and 15 others, of Johnson County, Indiana.

By Mr. S. H. MILLER: Of citizens of Cochranton, of Sonora, of Denny, and of Harrisville, Pa.

By Mr. MOULTON: Of 500 citizens of Edgewood, Effington County, Illinois.

By Mr. NELSON: Of citizens of Douglas County, of Stearns County, and of Fair Haven, Minn.

By Mr. PATTON: Of citizens of Clarion County, Pennsylvania.

By Mr. PERKINS: Of Adam Dietz and 144 others, of Elk County, and of George G. Curtis and 45 others, of Cherry Vale, Kans.

By Mr. PRICE: Of John W. Brown and 33 others, of Clark County, and of S. P. Johnson and 100 others, of Knapp, Wis.

By Mr. OSSIAN RAY: Of Edwin E. Shattuck and 171 others, of West Lebanon, N. H.

By Mr. ROBERTSON: Of 115 citizens of Grayson County, Kentucky.

By Mr. SENEY: Of C. S. Burton and 162 others, of Seneca County, Ohio.

By Mr. SHIVELY: Of A. J. McCarter and 83 others, of Warsaw, Ind.

By Mr. SNYDER: Of John H. Davis and others, of Kanawha County, West Virginia.

By Mr. STEVENS: Of 154 citizens of Warsaw, of 96 citizens of Castile, of Arcade, of Cawlerville, of Hartland, and of Linden, N. Y.

By Mr. STRUBLE: Of J. W. Hovey and 100 others, of Palo Alto County, Iowa.

By Mr. TOWNSHEND: Of 64 citizens of Equality, of 62 citizens of Burnt Prairie, of 62 citizens of Gallatia, of 34 citizens of Effingham, of 167 citizens of McLeansborough, of 63 citizens of McLeansborough, and of 49 citizens of Carlyle, Ill.

By Mr. A. J. WARNER: Of citizens of Otis Hill, Washington County; of S. J. Sharp and others, citizens and ex-soldiers of Athens County; of Elizabeth Rowles and others, of New Matamoras; of George M. Fultz and 62 others, of Meigs County; of William Elliott and 43 others, of Morgan County; of John Wheeler and 39 others, of Murphy's, and of Charles E. Hull and others, of Hull, Athens County, Ohio.

By Mr. WEAVER: Of Joseph Malcolm and 63 others, of Avoca, Nebr.

By Mr. WOOD: Of citizens of Fowler, of Hammond, of Valparaiso, of Lowell, of Star City, of Fulton, and of Delphi, Ind.

By Mr. WORTHINGTON: Of A. M. B. Wilson and others, of Fulton County, and of J. M. Campbell and others, of Saint Augustine, Ill.

SENATE.

SATURDAY, *January* 17, 1885.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

NAMING A PRESIDING OFFICER.

Mr. ALLISON called the Senate to order, and the Secretary read the following letter:

WASHINGTON, *January* 17, 1885.

To the Senate:

Pursuant to the rules I do hereby designate Hon. WILLIAM B. ALLISON, a Senator from the State of Iowa, to preside in the Senate during my absence this day.

GEO. F. EDMUNDS,
President pro tempore.

Thereupon Mr. ALLISON took the chair as presiding officer for to-day.

THE JOURNAL.

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

PUBLIC POLICY OF CONFEDERATE STATES EXECUTIVE DEPARTMENT.

The PRESIDING OFFICER (Mr. ALLISON in the chair) laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, on motion of Mr. MORRILL, ordered to lie on the table and be printed:

To the United States Senate:

I transmit herewith a copy of a letter addressed to the Secretary of War by General W. T. Sherman under date of January 6, 1885, as called for by resolutions of the Senate of January 13, 1885, as follows:

"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."

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *January* 16, 1885.

EXECUTIVE COMMUNICATION.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of War, transmitting a letter of the Chief of Ordnance inviting the special attention of the Committee on Appropriations to the estimates for the fiscal year 1886 for a milling-shop at Springfield armory, Massachusetts, and for a set of officers' quarters at New York arsenal; which, with the accompanying papers, was ordered to be printed, and referred to the Committee on Appropriations.

HOUSE BILL REFERRED.

The bill (H. R. 2799) to authorize the construction of a bridge across the Mississippi River at Memphis, Tenn., was read twice by its title, and referred to the Committee on Commerce.

PETITIONS AND MEMORIALS.

Mr. LAPHAM presented memorials of the cigar-makers' unions of Ithaca and Hornellsville, in the State of New York, remonstrating against the ratification of the Spanish reciprocity treaty; which were referred to the Committee on Foreign Relations.

He also presented a resolution of the Maritime Association of the port of New York, urging speedy action for the establishment of a permanent United States hospital at that port; which was referred to the Committee on Commerce.

He also presented a memorial of the Maritime Association of the port of New York, favoring the passage of the so-called Potter refunding bill; which was referred to the Committee on Finance.

He also presented the petition of Miss Frances T. Willard, president of the National Woman's Christian Temperance Union, and others, praying for the passage of a sixteenth amendment to the Constitution of the United States prohibiting the disfranchisement of any citizen on account of sex; which was referred to the Select Committee on Woman Suffrage.

Mr. SAWYER presented a memorial of the cigar-makers' union of Oshkosh, Wis., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. MAXEY presented the petition of Edward Braden and Job W. Angus, of Washington city, praying to be paid compensation claimed to be due them on a contract for a public building at San Antonio, Tex.; which was referred to the Committee on Claims.

Mr. VEST presented the petition of Herman Nagel and 53 other citizens of Missouri, praying for the repeal of the law fixing the terms of United States collectors, district attorneys, and other Federal officers at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. PENDLETON presented a petition of the citizens of Milan, Ohio, praying for the repeal of the law fixing the terms of office of collectors, marshals, district attorneys, and other Federal officers at four years; which was referred to the Committee on Civil Service and Retrenchment.

Mr. INGALLS presented a petition of citizens of Kansas, praying for the passage of a bill repealing the limitation of four years in the term of certain Federal offices; which was referred to the Committee on Civil Service and Retrenchment.

He also presented the memorial of William McIlvaine, president, and George M. Steinmiller, corresponding secretary, of Cigar-makers' Union No. 36, of Topeka, Kans., remonstrating against the ratification of the proposed Spanish reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. INGALLS. I also present a petition, numerously signed by citizens of the District of Columbia, praying for the passage of a bill to incorporate the North Capitol and Glenwood Cemetery Horse Railroad Company. I move that the petition be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. MITCHELL presented a petition of citizens of Pittsburgh and Allegheny, Pa., praying for the passage of a bill repealing sections 769, 1864, 2217, 2244, and 3830 of the Revised Statutes of the United States, relative to the terms of certain administrative officers; which was referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of 602 business men of Pittsburgh, Pa., praying for an appropriation for the improvement of the Allegheny River and its tributaries; which was referred to the Committee on Commerce.

Mr. CONGER presented a memorial of iron-mining companies and citizens of Iron River, Mich., and a memorial of a large number of iron manufacturers of different States, protesting against the ratification of the proposed Spanish treaty; which were referred to the Committee on Foreign Relations.

Mr. PLUMB. I have certain petitions which, while addressed to me, are evidently designed for the Senate. I ask uanimous consent that they may be received. They are two petitions of citizens of Wichita, Kans., in regard to the opening of a certain portion of the Indian Territory known as Oklahoma. I move that they be received and referred to the Committee on Indian Affairs.

The motion was agreed to.

PRINTING OF DOCUMENTS.

Mr. CAMERON, of Pennsylvania. I am directed by the Committee on Military Affairs to ask that there be printed for the use of that committee the letter of the Secretary of War and accompanying documents concerning the bill (S. 2492) to prevent the discharge from the military service of the United States of graduates from the Military Academy under the provisions of section 3, chapter 181, of the Supplement to the Revised Statutes, and for the repeal of the said section.

The PRESIDING OFFICER. That order will be made if there be no objection.

WILLIAM H. M'BRIDE.

Mr. CAMERON, of Pennsylvania. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 2488) to remove the charge of desertion against William H. McBride, late a private in Company F, Seventeenth Pennsylvania Cavalry, to report it with an