

The CHAIRMAN. The tellers have reported—yeas 70, nays 63.

Mr. BURNES. I am satisfied, Mr. Chairman, that within the limit of the session we can not expect a quorum.

Mr. DIBBLE. There are ten minutes more. [After a pause.] I move that the committee rise.

Mr. McMILLIN. Has the result been announced?

The CHAIRMAN. The tellers have reported—ayes 71, noes 63. The point of no quorum having been made, it is the duty of the Chair, under the rule, to report the fact to the House. If there be no objection, however, the Chair will omit the provision of the rule which requires that the roll shall be called.

Mr. DIBBLE. I ask unanimous consent that it be dispensed with. The CHAIRMAN. If there be no objection, the call of the roll will be dispensed with and the committee will rise.

There was no objection, and it was so ordered.

The committee accordingly rose; and Mr. McMILLIN having taken the chair as Speaker *pro tempore*, Mr. SPRINGER reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 10396) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1888, and for prior years, and for other purposes, and had come to no resolution thereon.

Mr. BURNES. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 4 o'clock and 55 minutes p. m.) the House adjourned.

PRIVATE BILLS INTRODUCED AND REFERRED.

Under the rule private bills of the following titles were introduced and referred as indicated below:

By Mr. BELDEN: A bill (H. R. 11253) for the relief of Nathaniel Goff—to the Committee on Invalid Pensions.

By Mr. BOOTHMAN: A bill (H. R. 11254) granting a pension to Elvira A. Hill—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11255) granting a pension to Joshua Harper—to the Committee on Invalid Pensions.

By Mr. HOVEY: A bill (H. R. 11256) for the relief of John D. Spencer—to the Committee on Invalid Pensions.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. COLLINS: Petition of W. G. Halpin for copies of his petition and evidence to support his claim against the Government of Great Britain for damages for unlawful imprisonment—to the Committee on Foreign Affairs.

By Mr. DUBOIS: Petition of the Grand Army of the Republic of Idaho, asking an appropriation of \$200,000 for head-stones for deceased Union soldiers—to the Committee on Military Affairs.

By Mr. LAIDLAW: Petition of citizens of Allegany and of Cattaraugus Counties, for amendment to the interstate-commerce law—to the Committee on Commerce.

By Mr. WILKINSON (by request): Petition for the relief of John W. Youman, of New Orleans, La.—to the Committee on Claims.

SENATE.

FRIDAY, August 24, 1888.

Prayer by Rev. A. W. PITZER, D. D., of the city of Washington. The Journal of yesterday's proceedings was read and approved.

FISHING RIGHTS OF THE UNITED STATES.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read:

To the Congress:

The rejection by the Senate of the treaty lately negotiated for the settlement and adjustment of the differences existing between the United States and Great Britain concerning the rights and privileges of American fishermen in the ports and waters of British North America, seems to justify a survey of the condition to which the pending question is thus renitted.

The treaty upon this subject concluded in 1818, through disagreements as to the meaning of its terms, has been a fruitful source of irritation and trouble. Our citizens engaged in fishing enterprises in waters adjacent to Canada have been subjected to numerous vexatious interferences and annoyances; their vessels have been seized upon pretexts which appeared to be entirely inadmissible, and they have been otherwise treated by the Canadian authorities and officials in a manner inexcessively harsh and oppressive.

This conduct has been justified by Great Britain and Canada, by the claim that the treaty of 1818 permitted it, and upon the ground that it was necessary to the proper protection of Canadian interests. We deny that treaty agreements justify these acts, and we further maintain that, aside from any treaty restraints, of disputed interpretation, the relative positions of the United States and Canada as near neighbors, the growth of our joint commerce, the development and prosperity of both countries, which amicable relations surely guaranty, and, above all, the liberality always extended by the United States to the people of Canada, furnish motives for kindness and consideration higher and better than treaty covenants.

While keenly sensitive to all that was exasperating in the condition, and by no means indisposed to support the just complaints of our injured citizens, I still deemed it my duty for the preservation of the important American interests, which were directly involved, and in view of all the details of the situation, to attempt by negotiation to remedy existing wrongs and to finally terminate by a fair and just treaty these ever-recurring causes of difficulty.

I fully believe that the treaty just rejected by the Senate was well suited to the exigency, and that its provisions were adequate for our security in the future from vexatious incidents and for the promotion of friendly neighborhood and intimacy, without sacrificing in the least our national pride or dignity.

I am quite conscious that neither my opinion of the value of the rejected treaty nor the motives which prompted its negotiation are of importance in the light of the judgment of the Senate thereupon. But it is of importance to the part of the Senate to alter or amend its provisions, and with the evident intention, not wanting expression, that no negotiation should at present be concluded touching the matter at issue.

The co-operation necessary for the adjustment of the long standing national differences with which we have to deal, by methods of conference and agreement, having thus been declined, I am by no means disposed to abandon the interests and the rights of our people in the premises or to neglect their grievances, and I therefore turn to the contemplation of a plan of retaliation as a mode, which still remains, of treating the situation.

I am not unmindful of the gravity of the responsibility assumed in adopting this line of conduct, nor do I fail in the least to appreciate its serious consequences. It will be impossible to injure our Canadian neighbors by retaliatory measures without inflicting some damage upon our own citizens. This results from our proximity, our community of interests, and the inevitable commingling of the business enterprises which have been developed by mutual activity.

Plainly stated, the policy of national retaliation manifestly embraces the infliction of the greatest harm upon those who have injured us, with the least possible damage to ourselves. There is also an evident propriety as well as an invitation to moral support, found in visiting upon the offending party the same measure or kind of treatment of which we complain, and as far as possible within the same lines. And above all things the plan of retaliation if entered upon should be thorough and vigorous.

These considerations lead me at this time to invoke the aid and counsel of the Congress and its support in such a further grant of power as seems to me necessary and desirable to render effective the policy I have indicated.

The Congress has already passed a law, which received Executive assent on the 3d day of March, 1887, providing that in case American fishing vessels being or visiting in the waters or at any of the ports of the British dominions of North America, should be or lately had been deprived of the rights to which they were entitled by treaty or law, or if they were denied certain other privileges therein specified, or vexed and harassed in the enjoyment of the same, the President might deny to vessels and their masters and crews of the British dominions of North America any entrance into the waters, ports, or harbors of the United States, and also deny entry into any port or place of the United States of any product of said dominions, or other goods coming from said dominions to the United States.

While I shall not hesitate upon proper occasion to enforce this act, it would seem to be unnecessary to suggest that if such enforcement is limited in such a manner as shall result in the least possible injury to our own people, the effect would probably be entirely inadequate to the accomplishment of the purpose desired.

I deem it my duty therefore to call the attention of the Congress to certain particulars in the action of the authorities of the Dominion of Canada, in addition to the general allegations already made, which appear to be in such marked contrast to the liberal and friendly disposition of our country as in my opinion to call for such legislation as will, upon the principles already stated, properly supplement the power to inaugurate retaliation already vested in the Executive.

Actuated by the generous and neighborly spirit which has characterized our legislation, our tariff laws have, since 1866, been so far waived in favor of Canada as to allow free of duty the transit across the territory of the United States, of property arriving at our ports and destined to Canada, or exported from Canada to other foreign countries.

When the treaty of Washington was negotiated in 1871, between the United States and Great Britain, having for its object very largely the modification of the treaty of 1818, the privileges above referred to were made reciprocal and given in return by Canada to the United States, in the following language, contained in the twenty-ninth article of said treaty:

"It is agreed, that for the term of years mentioned in Article XXXIII of this treaty, goods, wares or merchandise arriving at the ports of New York, Boston, and Portland, and any other ports in the United States, which have been or may from time to time be specially designated by the President of the United States, and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue, as the Government of the United States may from time to time prescribe; and under like rules, regulations, and conditions, goods, wares or merchandise may be conveyed in transit without the payment of duties from such possessions through the territory of the United States, for export from the said ports of the United States.

"It is further agreed that, for the like period, goods, wares, or merchandise arriving at any of the ports of Her Britannic Majesty's possessions in North America, and destined for the United States, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the said possessions under such rules, and regulations, and conditions for the protection of the revenue as the government of the said possessions may from time to time prescribe; and under like rules, and regulations, and conditions goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said possessions to other places in the United States, or for export from ports in the said possessions."

In the year 1886 notice was received by the representatives of our Government that our fishermen would no longer be allowed to ship their fish in bond and free of duty through Canadian territory to this country, and ever since that time such shipment has been denied.

The privilege of such shipment which had been extended to our fishermen was a most important one, allowing them to spend the time upon the fishing grounds, which would otherwise be devoted to a voyage home with their catch, and doubling their opportunities for profitably prosecuting their vocation. In forbidding the transit of the catch of our fishermen over their territory in bond and free of duty the Canadian authorities deprived us of the only facility dependent upon their concession, and for which we could supply no substitute.

The value to the Dominion of Canada of the privilege of transit for their exports and imports across our territory and to and from our ports, though great in every aspect, will be better appreciated when it is remembered that for a considerable portion of each year the St. Lawrence River, which constitutes the direct avenue of foreign commerce leading to Canada, is closed by ice.

During the last six years the imports and exports of British Canadian provinces carried across our territory, under the privileges granted by our laws, amounted in value to about \$270,000,000, nearly all of which were goods dutiable under our tariff laws, by far the larger part of this traffic consisting of exchanges of goods between Great Britain and her American provinces brought to and carried from our ports in their own vessels.

The treaty stipulation entered into by our Government was in harmony with laws which were then on our statute-book, and are still in force.

I recommend immediate legislative action conferring upon the Executive the power to suspend by proclamation the operation of all laws and regulations permitting the transit of goods, wares, and merchandise in bond across or over the territory of the United States to or from Canada.

There need be no hesitation in suspending these laws arising from the supposition that their continuation is secured by treaty obligations, for it seems quite plain that Article XXIX of the treaty of 1871, which was the only article incorporating such laws, terminated on the 1st day of July, 1885.

The article itself declares that its provisions shall be in force "for the term of years mentioned in Article XXXIII of this treaty." Turning to Article XXXIII we find no mention of the twenty-ninth article, but only a provision that Articles XVIII to XXV, inclusive, and Article XXX shall take effect as soon as the laws required to carry them into operation shall be passed by the legislative bodies of the different countries concerned, and that "they shall remain in force for the period of ten years from the date at which they may come into operation, and further until the expiration of two years after either of the high contracting parties shall have given notice to the other of its wish to terminate the same."

I am of the opinion that the "term of years mentioned in Article XXXIII," referred to in Article XXIX as the limit of its duration, means the period during which Articles XVIII to XXV, inclusive, and Article XXX, commonly called the "fishery articles," should continue in force under the language of said Article XXXIII.

That the joint high commissioners who negotiated the treaty so understood and intended the phrase is certain, for in a statement containing an account of their negotiations, prepared under their supervision and approved by them, we find the following entry on the subject: "The transit question was discussed, and it was agreed that any settlement that might be made should include a reciprocal arrangement in that respect for the period for which the fishery articles should be in force."

In addition to this very satisfactory evidence supporting this construction of the language of Article XXIX, it will be found that the law passed by Congress to carry the treaty into effect furnishes conclusive proof of the correctness of such construction.

This law was passed March 1, 1873, and is entitled "An act to carry into effect the provisions of the treaty between the United States and Great Britain, signed in the city of Washington the 8th day of May, 1871, relating to the fisheries." After providing, in its first and second sections, for putting in operation Articles XVIII to XXV, inclusive, and Article XXX of the treaty, the third section is devoted to Article XXIX, as follows: "Sec. 3. That from the date of the President's proclamation authorized by the first section of this act, and so long as the Articles XVIII to XXV, inclusive, and Article XXX of said treaty shall remain in force according to the terms and conditions of Article XXXIII of said treaty, all goods, wares, and merchandise arriving," etc., etc., following in the remainder of the section the precise words of the stipulation on the part of the United States as contained in Article XXIX, which I have already fully quoted.

Here, then, is a distinct enactment of the Congress limiting the duration of this article of the treaty to the time that Articles XVIII to XXV, inclusive, and Article XXX should continue in force. That in fixing such limitation it but gave the meaning of the treaty itself, is indicated by the fact that its purpose is declared to be to carry into effect the provisions of the treaty, and by the further fact that this law appears to have been submitted before the promulgation of the treaty, to certain members of the Joint High Commission, representing both countries, and met with no objection or dissent.

There appearing to be no conflict or inconsistency between the treaty and the act of the Congress last cited, it is not necessary to invoke the well-settled principle that in case of such conflict the statute governs the question.

In any event, and whether the law of 1873 construes the treaty or governs it, section 29 of such treaty, I have no doubt, terminated with the proceedings taken by our Government to terminate Articles XVIII to XXV, inclusive, and Article XXX of the treaty. These proceedings had their inception in a joint resolution of Congress passed May 3, 1883, declaring that in the judgment of Congress these articles ought to be terminated, and directing the President to give the notice to the Government of Great Britain provided for in Article XXXIII of the treaty. Such notice having been given two years prior to the 1st day of July, 1885, the articles mentioned were absolutely terminated on the last-named day, and with them Article XXIX was also terminated.

If by any language used in the joint resolution it was intended to relieve section 3 of the act of 1873 embodying Article XXIX of the treaty from its own limitations, or to save the article itself, I am entirely satisfied that the intention miscarried.

But statutes granting to the people of Canada the valuable privileges of transit for their goods from our ports and over our soil, which had been passed prior to the making of the treaty of 1871 and independently of it, remained in force; and ever since the abrogation of the treaty, and notwithstanding the refusal of Canada to permit our fishermen to send their fish to their home market through her territory in bond, the people of that Dominion have enjoyed without diminution the advantages of our liberal and generous laws.

Without basing our complaint upon a violation of treaty obligations, it is nevertheless true that such a refusal of transit and the other injurious acts which have been resorted to constitute a provoking insistence upon rights neither mitigated by the amenities of national intercourse nor modified by the recognition of our liberality and generous considerations. The history of events connected with this subject makes it manifest that the Canadian Government can if so disposed administer its laws and protect the interests of its people without manifestation of unfriendliness and without the unneighborly treatment of our fishing vessels of which we have justly complained; and whatever is done on our part should be done in the hope that the disposition of the Canadian Government may remove the occasion of a resort to the additional executive power now sought through legislative action.

I am satisfied that upon the principles which should govern retaliation our intercourse and relations with the Dominion of Canada furnish no better opportunity for its application than is suggested by the conditions herein presented; and that it could not be more effectively inaugurated than under the power of suspension recommended.

While I have expressed my clear conviction upon the question of the continuance of section 29 of the treaty of 1871, I, of course, fully concede the power and the duty of the Congress in contemplating legislative action to construe the terms of any treaty stipulation which might upon any possible consideration of good faith limit such action; and likewise the peculiar propriety in the case here presented of its interpretation of its own language as contained in the laws of 1873, putting in operation said treaty, and of 1883 directing the termination thereof; and if in the deliberate judgment of Congress any restraint to the proposed legislation exists it is to be hoped that the expediency of its early removal will be recognized.

I desire also to call the attention of the Congress to another subject involving such wrongs and unfair treatment to our citizens as, in my opinion, require prompt action.

The navigation of the Great Lakes, and the immense business and carrying trade growing out of the same, have been treated broadly and liberally by the United States Government, and made free to all mankind, while Canadian railroads and navigation companies share in our country's transportation upon terms as favorable as are accorded to our own citizens.

The canals and other public works built and maintained by the Government along the line of the Lakes are made free to all.

In contrast to this condition, and evincing a narrow and ungenerous commercial spirit, every lock and canal which is a public work of the Dominion of Canada is subject to tolls and charges.

By Article XXVII of the treaty of 1871 provision was made to secure to the

citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion of Canada, on terms of equality with the inhabitants of the Dominion, and to also secure to the subjects of Great Britain the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.

The equality with the inhabitants of the Dominion which we were promised in the use of the canals of Canada did not secure to us freedom from tolls in their navigation, but we had a right to expect that we being Americans and interested in American commerce would be no more burdened in regard to the same than Canadians engaged in their own trade; and the whole spirit of the concession made was, or should have been, that merchandise and property transported to an American market through these canals should not be enhanced in its cost by tolls many times higher than such as were carried to an adjoining Canadian market. All our citizens, producers and consumers, as well as vessel owners, were to enjoy the equality promised.

And yet evidence has for some time been before the Congress, furnished by the Secretary of the Treasury, showing that while the tolls charged in the first instance are the same to all, such vessels and cargoes as are destined to certain Canadian ports are allowed a refund of nearly the entire tolls, while those bound for American ports are not allowed any such advantage.

To promise equality and then in practice make it conditional upon our vessels doing Canadian business instead of their own is to fulfill a promise with the shadow of performance.

I recommend that such legislative action be taken as will give Canadian vessels navigating our canals, and their cargoes, precisely the advantages granted to our vessels and cargoes upon Canadian canals, and that the same be measured by exactly the same rule of discrimination.

The course which I have outlined, and the recommendations made, relate to the honor and dignity of our country and the protection and preservation of the rights and interests of all our people. A government does but half its duty when it protects its citizens at home and permits them to be imposed upon and humiliated by the unfair and overreaching disposition of other nations. If we invite our people to rely upon arrangements made for their benefit abroad, we should see to it that they are not deceived; and if we are generous and liberal to a neighboring country our people should reap the advantage of it by a return of liberality and generosity.

These are subjects which partisanship should not disturb or confuse. Let us survey the ground calmly and moderately, and having put aside other means of settlement, if we enter upon the policy of retaliation let us pursue it firmly, with a determination only to subserve the interests of our people and maintain the high standard and the becoming pride of American citizenship.

GROVER CLEVELAND.

EXECUTIVE MANSION, August 23, 1888.

Mr. SHERMAN. I move that the message of the President be printed and referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the message of the President of the United States be referred to the Committee on Foreign Relations and printed.

Mr. EDMUNDS. On that motion I should like to say a few words, although I am in favor of the motion.

If I were five or six years younger than I am I should be surprised at this message, but I am not. I am, for one, very highly gratified at the patriotic expressions, the hopes, wishes, almost intentions of the President of the United States in regard to the protection of American interests and American rights.

But the peculiarity of the situation, as it seems to me, is that having had a statute providing for self-defense, approved by the present President of the United States and passed by the substantially unanimous vote of both Houses (if that made any difference to his duty in faithfully executing the laws), and after full consideration of all its points and bearings, of the extent to which it should go and the objects to which it should be limited, and the circumstances under which it should be brought into play, a period of eighteen months, in round numbers, has gone by, and we are now informed by the President of the United States—for I take it that is what it means, although there is no word of that kind in the message—that no step of any kind has been taken to carry into execution the plain provisions of that law.

It is true the law did not require the President to put it into effect in the way of self-defense (as I prefer to call it rather than retaliation) until a case should have arisen of the wrong and injustice mentioned in the statute, which should satisfy the President of the United States that American rights and interests were being unjustly dealt with.

Now, what has happened since the passage of the act? If nothing has happened, if there have been no instances of unjust denial of American rights, of unjust treatment of American citizens in the provinces of the Dominion, then of course the President has been entirely right in taking no step in respect of the matter. If in his opinion, however, as he now states it, there have been instances of the denial of just rights to American citizens engaged in the business described in the act of 1887, why is it that he has not taken any step in the exercise of the power that the law imposed upon him, and in the exercise of his duty that the Constitution imposes upon him of taking care that the laws are faithfully executed?

Here was a law that he was to execute when the contingency should arise of the existence of a particular fact. He being satisfied that the fact existed, then it was his duty to take steps to obtain redress in the method that the statute pointed out.

So, then, we have the case of a period of nearly eighteen months during which, as he now states to us in this message, in some respects, not all (because the message refers to matters in some parts that the act of 1887 does not refer to in regard to a *casus* for action in some respects), the very rights that were defined in the statute of 1887, the very injuries that were pointed out for his observation and for his action when he should observe that they had occurred, have existed ever since the passage of that act; for in one instance he tells us that as early as 1886 an American fishing vessel, catching fish on the high seas outside of

the 10 and the 20 mile delimitation that a treaty which is said to have been before the Senate provided for, and sailing as a purely commercial enterprise to a port of British North America for the purpose, as a commercial matter, of sending her cargo of fish by rail to Boston, has been by a general order, a sweeping order, denied that privilege and excluded.

The President says, and says justly, that that was a great, a most important, a grievous injury to American interests and to American rights. Why has he been silent for eighteen months, with the whole power of the law in his hands and the easy means of exerting all the functions that the law imputed to him in such a case to try it? Why has he remained inactive? Doubtless under the patriotic advice of the gentlemen who compose his Cabinet, or the heads of Department, and doubtless with the most patriotic motives, that it would be well to submit to what is now declared to be a gross and grievous wrong, with the means at hand to redress it or defend against it, and to enter into a discussion with the wrong-doer to provide for a new arrangement on a broader basis of British territoriality and a new arrangement on a broader basis of British free trade.

So I must suppose that these important and urgent powers that Congress unanimously put into his hands to be exercised as a duty in case he found the fact to exist that was described in the statute have been suspended by executive authority, by prerogative, as I think it is mentioned in some of the minority reports of some of the committees here, as if one of the attributes of the President has been suspended by prerogative, as an English King in some old time would undertake to suspend an act of Parliament—not to carry it into execution as long as you could talk with the nation that was continuing, while it was talking peace, the very wrong that is now so fully and well set forth in this message.

I must confess, Mr. President, my astonishment at such a course of action on the part of the Executive of the United States. I must express my surprise and my regret, and, using his language, not the regret of a partisan, but the regret of a citizen, that here for more than a year, with the means in his hands to redress it, he has failed to take any step, and now sends to us a message asking that additional powers, bearing as he supposes upon a broader field of retaliation and covering other topics, be given to him, and, as I must suppose, on the principle that he has already acted upon, that until they are given to him he will do nothing at all.

This business is very odd. I wish to call attention to one incident of this message which also struck me with a good deal of surprise, for referring to this treaty, which he says has been disposed of, we apparently do not now know what was the course of the negotiations that led to the treaty; we apparently do not now know what stipulations, and engagements, and understandings, and protocols, and glosses, and declarations existed. The President sent us the treaty with, I believe, one protocol, which was simply a formal one. He sent us another letter, I believe, in which our commissioners, or whatever they were called, our plenipotentiaries, declined to go into the customs duties question; and then on a resolution of the Senate, passed as every Senate from the beginning has passed such resolutions, asking for all the papers, the minutes, the protocols, the information, so that the Senate could see it in the light that our supposed representatives and the President had seen it, to understand how far it went and what it meant, what was proposed and what was denied, we were told that we had received all the information that it was thought proper to communicate, because there was an understanding that the discussions and propositions should be confidential. We know how that understanding came out in another country than our own. It was not confidential as to them, so far as now appears.

But here I find in this message a thing to which I wish to call the especial attention of the Senate. In his discussion as to whether the twenty-ninth article of the treaty of 1871 is in force or not, and as supporting the opinion that it is not (as gravely erroneous as in my judgment that opinion is, and as has been so often agreed in this body in former discussions of topics that touch this question, and as was agreed when we passed the act directing the President to terminate the other articles named), I find this statement:

That the joint high commissioners who negotiated the treaty so understood and intended the phrase is certain, for in a statement containing an account of their negotiations, prepared under their supervision and approved by them, we find the following entry on the subject: "The transit question was discussed, and it was agreed that any settlement that might be made should include a reciprocal arrangement in that respect for the period for which the fishery articles should be in force."

What bearing that has upon the question as to whether the twenty-ninth article is in force it is impossible for me to see. As we can sometimes learn from Canada, the question as to whether this article continued in force after the notice of termination, which took effect in 1885, we readily ascertain from the Canadian discussions of it, from the Canadian pretension in respect of the shipping of our fish from their ports by railroad to our own; for so far as I yet know, and I think so far as anybody knows, the Canadian Government have not refused to transship fish upon the ground that that article was not in force. They have made no such pretension. They have refused to transship fish on the ground that that article did not override the convention of 1818,

by which an American fishing vessel was not to come within 3 miles of the land for any purposes whatever except the four specially named. That was their point.

So, without at this time going into any broad consideration as to whether the twenty-ninth article is in force or not, I have only to say that it is of no consequence to the purpose we now have in hand whether it is in force or is not in force, and whether the act of 1866 is in force or is not in force.

In order to have anybody who shall read these discussions understand precisely what the powers of the President are in this connection, I ask the Secretary to read the fisheries act of 1887—the whole of it, from beginning to end.

The Chief Clerk read as follows:

CHAP. 339.—An act to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes.

Be it enacted, etc., That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are or then lately have been unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights; or otherwise unjustly vexed or harassed in said waters, ports, or places; or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places, in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favored nation, or shall be unjustly vexed or harassed in respect thereof, or otherwise be unjustly vexed or harassed therein, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favored nation; or whenever the President of the United States shall be satisfied that any other vessels of the United States, their masters or crews, so arriving at or being in such British waters or ports or places of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters or crews, of the most favored nation, or unjustly vexed or harassed in respect of the same, or unjustly vexed or harassed therein by the authorities thereof, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of, or within the United States (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies as to the President shall seem proper), whether such vessels shall have come directly from said dominions on such destined voyage or by way of some port or place in such destined voyage elsewhere; and also to deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States, the President may, in his discretion, apply such proclamation to any part or to all of the foregoing-named subjects, and may revoke, qualify, limit, and renew such proclamation from time to time as he may deem necessary to the full and just execution of the purposes of this act. Every violation of any such proclamation, or any part thereof, is hereby declared illegal, and all vessels and goods so coming or being within the waters, ports, or places of the United States contrary to such proclamation shall be forfeited to the United States; and such forfeiture shall be enforced and proceeded upon in the same manner and with the same effect as in the case of vessels or goods whose importation or coming to or being in the waters or ports of the United States contrary to law may now be enforced and proceeded upon. Every person who shall violate any of the provisions of this act, or such proclamation of the President made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court.

Approved March 3, 1887.

Mr. EDMUNDS. In the same connection, as a kind of glossary or protocol to that statute, I ask the Secretary to read the report made by my friend from Alabama [Mr. MORGAN], my friend from Maine [Mr. FRYE], and myself as the managers of the conference on the part of the Senate on the disagreeing votes of the two Houses upon the bill which resulted in that law.

The Chief Clerk read as follows:

Mr. EDMUNDS, Mr. FRYE, and Mr. MORGAN, managers on the part of the Senate on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 3173) to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes, submitted the following report:

The managers on the part of the Senate of the conference on the disagreeing votes of the two Houses on their disagreeing on the amendments proposed by the House to the bill (S. 3173) respecting the fisheries, respectfully report that the bill passed the Senate on the 24th day of January, 1887, and on February 23 was returned from the House of Representatives with an amendment striking out the whole of the Senate bill and proposing one entire House amendment in its place.

On the 24th the bill was laid before the Senate, and the House amendment was disagreed to and a committee of conference asked and the papers ordered to be printed.

On the 25th instant the House agreed to the conference, and on the 26th the managers on the part of the House met the Senate managers in the afternoon of that day and the differences in the views of the two Houses fully discussed. The House conferees did not object to the substance of any part of the bill as it passed the Senate so far as it goes, but the first part of the first section of the House amendment undertakes to restate the enumeration of the cases and injuries mentioned in the Senate bill by entirely dropping the classifications or groups of vessels made in the Senate bill and to bring all vessels of the United States, of whatever character or class, within one definition.

The ground on which the Senate bill went in this respect was that United States fishing vessels purely had their rights regulated and measured by the treaty of 1818, as having the absolute right of fishing inshore in certain parts of the marine territories of the British dominions in North America and being prohibited from fishing in other parts, but still having the right to enter those other waters for the purposes enumerated in the treaty, and not to be abused with a view to fishing in prohibited waters.

The second classification of United States vessels made in the Senate bill covered precisely the same vessels, but having also a commercial character ob-

tained by having not only a license to fish, but also under the laws of the United States a permit to touch and trade in foreign ports, and which, therefore, in their character as trading vessels, would not, as it was thought, be under the prohibitory provisions of the fishery treaty of 1818.

The third classification covered all other vessels of the United States not falling within the two preceding classes.

It was thought by the Senate, in passing the bill in that form, that a more clear understanding could be had of its application and enforcement than if all the vessels had been massed under one description. The Senate bill then proceeded to provide for cases not merely of the denial of treaty rights to purely fishing vessels, or the denial of lawful trading rights to fishing vessels otherwise to touch and trade or lawful rights to purely trading vessels, but to include also unjust vexation and harassment as well as exclusion from rights to trade accorded to the vessels of the most favored nation.

The House amendment applicable to the whole of this part of the subject purports to provide for the cases of vessels of the United States which "are denied in the ports or territorial waters of the British dominions in North America rights to which such vessels are entitled by treaty or by the law of nations or are denied the comity of treatment or the reasonable privileges usually accorded between neighboring and friendly nations."

It is, with great respect to the House of Representatives, thought by the Senate managers of the conference that this provision is not nearly so adequate to the condition of affairs as the provisions of the Senate bill which have been already described. There is no treaty in existence between the United States and Her Majesty's Government on the subject of the treatment of American vessels in British North American waters or ports, other than the provisions already referred to concerning purely fishing vessels and contained in the treaty of 1818, with possibly an exception as it respects one or two particular ports, and with the exception of such provisions as are contained in the treaty of 1871, which provisions in this last-named treaty are in these respects not applicable to the now existing difficulties. What positive rights "the law of nations" mentioned in the House amendment United States vessels entering British North American waters are entitled to the Senate managers think it would be somewhat difficult to define or explain. For, it is believed, by what is called the "law of nations" no vessel of the United States would have a right to enter British waters at all other than under an implied and tacit consent of the sovereign of that country, which could, at any moment, be positively withdrawn consistently with the understood sovereign rights of all nations. The Senate managers, therefore, think that this definition, measured by the law of nations, is really not much more than a definition measured by the will of the British Government so far as exclusion or the regulation of conduct in such waters might happen to go.

The next phrase in the House amendment proposed to take the place of the enumerations and descriptions mentioned in the Senate bill purports to provide for cases in which American vessels "are denied the comity of treatment or the reasonable privileges usually accorded between neighboring and friendly nations."

The Senate managers are of opinion that this phrase, so far as it applies to purely fishing vessels, may go beyond the treaty rights of such vessels as measured by the treaty of 1818. Whether the phrase was intended to include treatment and reasonable privileges secured between neighboring and friendly nations by treaty, such as exists in respect of British vessels of Her Majesty's dominions in Europe in waters of the United States and American vessels in European British waters, does not appear to be at all clear. If it be meant to cover such cases, then the provision would be entirely inapplicable to the case in hand. If it be meant to make the test that of the conduct of neighboring and friendly nations in the absence of a treaty concerning the respective rights of their vessels in the waters of the other, then the cases occurring in the last year of the treatment of American vessels in British waters of North America might be considered the standard to which this language would apply, for Great Britain is, in respect of her dominions of North America, a neighboring, and, in a public sense, a friendly nation. But if it were taken in general as applied to the general good neighborhood of nations, the standard would probably vary more or less, whatever country should be resorted to for finding the measurement of administration in regard to foreign vessels.

But, as has been before stated, the House managers, so far as we can understand, do not appear to find fault with the substance or the essential phraseology of the Senate bill.

The irreconcilable point of difference between the managers on the part of the two Houses is the insistence, on the part of the House managers, upon adding to the scope of the Senate bill, and so going beyond it, the further provision that, in case of injurious treatment to our vessels in British North American waters, it shall be within the competence of the President of the United States to absolutely stop intercourse not only by water, but by land, between the people of the United States and the people of the British territories adjacent, thus absolutely cutting off the continuous movement of railway trains from the British provinces to any part of the United States, and, in effect, reciprocally from the United States to British dominions, either on the northern border of Minnesota, at the river St. Mary, at Port Huron, at Detroit, at Grosse Isle, at Buffalo, at Niagara Falls, at Rouse's Point, at Highgate, Franklin, Richford, Troy, Derby, and Norton, on the northern border of Vermont, and on the northern and eastern borders of Maine; at all of which places it is understood there now exist interior railroad lines crossing the boundaries of the two countries—in some cases operated and practically owned by British subjects, and in other cases operated and practically owned by American citizens.

The Senate managers have felt it to be a duty to decline to go to this extent, and have thought it to be clear that the provisions for the protection of American interests set forth in the Senate bill, and in that part of the House amendment applicable to any British violation of the treaty of 1877, are entirely adequate to the peaceful end in view, and that there is no present justification for reposing in the Executive this further enormous power proposed by the House of Representatives in its amendment, and insisted upon by the House managers.

It seems clear to the Senate managers, and has not been controverted by the House managers, that the things the President is authorized to do by the Senate bill in the cases named are none of them in derogation, either directly or indirectly, of any treaty right, or of the peaceful business intercourse of nations, but that this Government in these respects is absolutely free to act in the manner proposed without being subject to the imputation that it is either in any way infringing the most liberal interpretation of any treaty or doing any act that nations at peace have not hitherto found themselves from time to time justified in doing, not in a spirit of belligerency, but merely as a matter of counter-vailing business regulations.

The Senate managers offered to the House managers to add to the Senate bill the provision contained in the House amendment providing that, if there should be any violation of Article XXIX of the treaty of 1871 on the part of Great Britain, the President should be authorized reciprocally to withdraw from British subjects the benefits of the same article with certain changes of phraseology, which, it is understood, were satisfactory to the House managers.

The Senate managers also expressed their willingness to accede to the third section of the House amendment, although the propriety of its form and substance is open to very considerable question.

The result of the conference, therefore, has been that the House of Representatives, through its managers, not objecting to the Senate bill, but desiring to add a new and enlarged provision to the Senate bill and to adopt measures additional to those mentioned in the Senate bill, and not necessarily dependent

thereon, and the Senate managers unwilling to go to that extent, and so disagreeing to the House proposition, decline to make even the provision that has passed the Senate in respect of the subject of the protection of our fishing and other vessels, and to which the House makes no objection so far as it goes, unless the Senate will consent to make further legislative provisions which it believes to be unwise. It would seem needless to say that such a pretension, made by one of two co-ordinate legislative bodies, is quite untenable.

The essential principle upon which the two Houses have almost universally hitherto acted, and without which no legislation whatever could be accomplished when there was not perfect accord on all points, has been that when either House proposes legislation that is satisfactory to the other so far as it goes, and the other House desires to go further and make affirmative and additional law, if it can not convince its co-ordinate body that it is desirable to go further, the House proposing the affirmative additional legislation must recede. This principle is vitally important to the independence of each House, and so indispensable to the practical legislation of the country that the Senate managers have felt it to be a paramount duty to refuse to accede to this further House proposition, both as unnecessary and unwise, and as in derogation of the equal rights of the two bodies.

The Senate managers have felt it to be a duty in this important matter to report this state of things at once to the Senate for its information.

GEO. F. EDMUNDS,
WM. P. FRYE,
JNO. T. MORGAN.

Mr. EDMUNDS. So it will be seen that one of the very things that the President of the United States is now apparently for the first time solicitous upon was brought directly to the attention of the two Houses of Congress preceding the passage of this law, and that the Senate was of the opinion that the provisions contained in the law as it was proposed and as it finally passed were entirely adequate to the protection of American rights and interests in the respects in which they had been intruded upon and assailed. And we took into view, as Congress did when it passed the act providing for the annulment of the fisheries articles of the treaty of 1871, the fact that the twenty-ninth article of the treaty of 1871 was in force, both Houses did, and in order to legislate so that that would not stand in the way of redress we passed this statute (which the President in his message says a statute may do) to authorize him to deny Canadian vessels and Canadian goods access to our ports if they denied the right of our fishermen to transship fish; that the treaty had nothing to do with it; that if Great Britain, the treaty being in force, violated it on her side and denied to us a right that we had under it, we were no longer under any obligation to grant to her a right that she had under it, and it did not need a statute to do that. There are gentlemen within the hearing of my voice now who have occupied positions as Cabinet ministers of Presidents of the United States, there are others who have not who have been students of public law, and my friend from Alabama [Mr. MORGAN] I can appeal to as one of the best of them, and they know that when one nation having a treaty with another chooses to break it or to refuse or refrain from carrying it into reciprocal and equal effect, the other nation is no longer bound, and it is at the option of her Executive, whose business it is to see that the laws are faithfully executed, and that nothing else is executed, shall stand up for the rights of the nation that is thus wronged, just as the Senator from New York [Mr. EVARTS] did under a treaty with some power of whom we are now speaking, who told them that if they chose to put a certain interpretation upon that treaty then he would regard it, under the direction of the President of the United States, as an end of the treaty.

Mr. VEST. May I ask the Senator a question?

Mr. EDMUNDS. Certainly.

Mr. VEST. Do I understand the Senator from Vermont to assert that under the act of March 3, 1887, known as the retaliation act, the President had the power to retaliate as to the grievances of which he complains, and which are set forth in his message?

Mr. EDMUNDS. Yes.

Mr. VEST. That is the position of the Senator?

Mr. EDMUNDS. That is the position.

Mr. VEST. I understand him further to state that without any statute the general power exists in the President of the United States to retaliate whenever there has been an infraction of a treaty?

Mr. EDMUNDS. I have not said that. I will try to state my position again. I stated some time ago, I think, that the message of the President contains a reference to some topics of discontent that he has for the first time communicated to Congress, although very old ones, and the attention of Congress was called to them in reports of committees long ago, touching the canals, for instance, that this act of 1887 does not touch at all, because the preamble, so to speak, the introduction of the act, the basis upon which the President is to exert his power, refers to the treatment of American vessels and not to the treatment of Americans who are in the Welland Canal. If the Canadian authorities treated the vessel there wrong that might do, perhaps; but to the ordinary land carriage it did not. It was really the fisheries question; but that being ascertained, the case of the denial by the Canadian authorities of the right of the Americans to transship their fish from Halifax to Boston when they brought them from the Grand Banks, and as a means of commerce, having, as the President of the United States says, the right to do that under the twenty-ninth article of the treaty of 1871, the President of the United States, first by force of this act of 1887, was justified and it was his duty to deny to Canadian fish, or any other Canadian goods, transportation across our country just so far and so fast as he should deem it an adequate redress for the wrong committed upon us; and then I added that if we had no such statute,

our fishermen having a right to transship their fish from Halifax to Boston, where they have caught them on the high seas, and that being denied to them, under the twenty-ninth article of the treaty of 1871, it was within the competence and the duty of the President of the United States to inform the British Government that we regarded that article as no longer of force, for it could not be in force on one side and not on the other at the same time. That is what previous Presidents and Secretaries of State have done, to the honor and benefit of the American name and of American interests.

Now, sir, I want to read on the subject of this twenty-ninth article of the treaty of 1871 being in force a letter from the Secretary of State, addressed to Hon. Mr. REAGAN, a Senator of the United States, in connection with investigations of the Interstate Commerce Committee, and which was laid before that committee by the Senator from Texas in the course of his duty as a member of that committee, and it is now on the files of the committee, technically speaking, although, in fact, it is in my hands:

DEPARTMENT OF STATE, Washington, January 7, 1887.

SIR: I had the honor to receive late yesterday afternoon your telegram asking to be informed "when was the treaty of Washington between the United States and the Dominion of Canada abrogated? When did its provisions cease to operate?"

The information you desire is found in the accompanying document, containing the correspondence which took place between this Department and the British minister in 1885, and the President's proclamation in regard to the termination of the fisheries articles of the treaty of Washington.

This document is reprinted in full in the recently printed Executive Document in relation to the rights of American fishermen in British North American waters (Executive Document No. 19, House of Representatives, Forty-ninth Congress, second session, pages 199-210), a copy of which is also inclosed herewith.

The treaty of Washington between the United States and Great Britain did not relate solely to the Canadian fisheries. Only the fishery articles thereof were abrogated, as enumerated in the President's proclamation of January 31, 1885. The remaining articles, comprising those which relate to commercial intercourse between the United States and the British North American possessions, are still in force.

I have the honor to be, sir, your obedient servant,

T. F. BAYARD.

HON. JOHN H. REAGAN,
U. S. Senate.

Those enumerated articles did not, as the President says in his message, contain Article XXIX. They named the articles that were annulled by the force and in the method provided for in the treaty itself by the action of Congress, and when Congress came to pass the law which required the President of the United States to give notice of the termination of those articles, it named them, and then it provided for reinstating the laws of the United States which were then in a state of suspense as it respected those abrogated articles. With this careful phraseology, which, as I have said, was adopted because Congress perfectly understood, as every lawyer on investigation perfectly understood, as the Secretary of State, himself a great lawyer and statesman, understands, that Article XXIX is still in force, Congress provided for setting on foot again all the laws, etc., "so far as it relates to the articles of said treaty so to be terminated shall be and stand repealed and be of no force on and after the time of the expiration of said two years."

So much for that. We have got them, as we stand now in respect of the only fisheries wrong that the President mentions in this message of his as of crying and loud importance, as it is, the denial by the Canadian authorities, persisted in, as the President says, from 1886 until now, and now continued, of the right of American fishermen fishing on the high seas under that Article XXIX or under commercial reciprocity and kindness to transship their fish to Boston or New York, while a Canadian fisherman or any other British vessel coming to any one of our ports is by the force of that article and our friendly laws authorized to carry his fish to Canada or from Canada to New York for exportation without the payment of any duty, there is the fact; and the President tells us that it has existed now for two years.

Following that fact, which he says is a gross outrage and injury, is this statute of the United States, which says that when he is satisfied of that fact he shall apply the means of redress that the statute has put in his hands. Why does he not do it? I should be glad to have somebody say, I should be glad intellectually if the President of the United States has said in this message what the reasons are, what the impediments are to his endeavoring to faithfully execute the statute of the United States upon a state of circumstances that he officially reports to exist, when that statute makes it his duty to employ the means that the law has given to accomplish it. Oh, no. I believe in the time of the late war, if I may refer to that without offense, it was said from time to time that the more troops a certain Union general, or perhaps more than one general were supplied with, the greater difficulty they found in moving on the enemy, and were continually telegraphing to President Lincoln that they could not go until they had more force. Does the President of the United States really mean to say to Congress that he can not take any step provided for in the act of 1887 until Congress shall give him further powers, and particularly and chiefly the very powers that on full discussion eighteen months ago the Senate thought it was unfit to give him?

My friend from Alabama united with my friend from Maine and myself, and the Senate agreed with us, in saying that there was no neces-

sity for reposing in the President such an enormous power as that, and that it ought not to be done certainly until it should have been found, by a faithful execution of the proposition that we did send to him and that he agreed to, that those means were inadequate, then we could consider what should be done next.

Alas, I think it is an infinite pity somewhere—perhaps it is the fault of this side of the Chamber or the other, or of somebody—it is an infinite pity that in so simple a case with adequate and full statutes, the force or weakness of which, if they have any weakness, has never yet been tested by the President, the law should remain unexecuted and in "a state of innocuous desuetude" until the President of the United States, these wrongs before his eyes as he says, could see whether Congress put any more ammunition into his hands before he fires.

Mr. HOAR and Mr. MORGAN addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Massachusetts.

Mr. MORGAN. Does the Senator from Massachusetts desire to submit any remarks on this motion?

Mr. HOAR. I rose for that purpose.

Mr. MORGAN. Proceed then.

Mr. HOAR. I recognized the entire propriety when the Senator from Alabama rose at the same time that one on that side should be recognized, and if the Senator from Alabama desires, I will yield to him.

The PRESIDENT *pro tempore*. The Senator from Massachusetts first addressed the Chair.

Mr. MORGAN. Proceed; I do not desire to take the floor just now.

Mr. HOAR. Mr. President, confession is good for the soul, and it is a subject of considerable satisfaction to a benevolent mind to witness the working of the grand Democratic confession which seems to have established itself in the White House. We got a message a short time ago, within three months, from the President of the United States which contained this language:

As the documents and papers referred to will supply full information of the positions taken under my administration by the representatives of the United States, as well as those occupied by the representatives of the Government of Great Britain, it is not considered necessary or expedient to repeat them in this message. But I believe the treaty will be found to contain a just, honorable, and, therefore, satisfactory solution of the difficulties which have clouded our relations with our neighbors on our northern border.

The whole subject-matter of our relations with our neighbors on our northern border so far as on the 20th day of February they seemed to require the removal of any cloud, were dealt with in a treaty which the President of the United States sent to us and which he and the head of the Department of State and every Democratic Senator who has dealt with the subject, so far as I now remember, loudly and vociferously declared removed every cause of offense or prevented its existence in the future which the American people had against the Dominion of Canada; and we were told when we pointed out grievance after grievance which was not touched, that we were proposing retaliation, that that was a most dangerous and abominable thing, never to be thought of or heard of, if it could be helped, among friendly nations, and that if we did not look out we should get the country into a war.

The Senators on that side of the Chamber having laid down before the demands and threats and pretensions of the little Dominion of Canada, they thought they were lying down by the side of the President to comfort him in his own position. Now, behold, poor man, the President undertakes to get up and shake the mud from his own coat and leaves them where they have placed themselves.

Why, sir, if this thing which is now set forth, and which has been affirmed by Republican Senators who have raised two committees of this body to address themselves to the charge that Canada has been all this time violating the treaty of 1871 in regard to our use of her canals and other transportation facilities, and in regard to the engagement made by Great Britain that she should afford us equal facilities to those afforded to her in our territory—if, I say, that is true, as we on this side of the Chamber have been affirming, how happens it that the Administration and the negotiators of this treaty have been dumb during the last two years on that subject?

If, when the representatives of Great Britain were in Washington, the Administration called their attention to this breach of faith on the part of Canada and Great Britain, to this wrong which the President now says demands the instant and prompt measure of retaliation, and they rejected a demand for redress, how happens it that that part of the negotiation was kept wholly secret from the Senate and from the people of the United States, how happens it that the President sent to us a treaty which it was claimed removed every cause of offense and complaint on the part of the American people so far as their relations with Canada were concerned? If, on the other hand, he did not call this to the attention of the representatives of Great Britain; if, on the other hand, our negotiators in negotiating a treaty of peace and amity were silent, then in what attitude does he now seek to place the people of the United States, or would they have been placed but for the intervention of the Senate in rejecting the proposed treaty? He would have had a long negotiation with Great Britain extending through months, he would have declared to her that the results of that negotiation were perfectly satisfactory to the country he represented, and then the moment the treaty to which she had consented had been ratified and accepted, he

would have been prepared to turn around upon her with this hostile measure of retaliation.

Which of these two things is true? Has the President believed all the time he was urging upon us this treaty as a complete solution of this matter that it was not a complete solution, and that these grave causes of offense still exist to be prosecuted and pursued, and kept that belief the whole time from the representatives of the American people on the one side and the representatives of Great Britain on the other?

Now, the President of the United States comes in and asks of Congress additional power. These facts have been known to the Secretary of the Treasury for the past several years, and of course to the Administration, if we are to take the information conveyed to us in this message. On the 30th of January, 1888, the Senate passed a resolution asking the Secretary of the Treasury to communicate to Congress whether any communication had been had with the Dominion of Canada in reference to these grievances, and this is his reply under date of February 7, 1888:

In reply to the first inquiry, I have to state that no communication has been had with the Dominion of Canada, nor have any agreements been arrived at touching the transportation of goods since the abrogation of the articles of the treaty referred to.

Down to the 7th day of February, 1888, according to the communication of the Secretary of the Treasury, this Administration had been as dumb before Canada in regard to this ground of complaint as a sheep before the shearer. But in the next place the President claims—and I do not propose to add anything to what has been said by the honorable Senator from Vermont [Mr. EDMUNDS] on that subject, nor to express any opinion of my own in regard to it at the present time—the President claims that the twenty-ninth article of the treaty of 1871 has been abrogated, and that each nation therefore is at liberty without further negotiation, if it shall see fit, to proceed to regulate its own conduct in reference to this subject-matter of complaint without regard to any binding obligation of one toward the other. Very well; if that be true, then the Administration has all this time—and I desire to call the attention of the Senate to this proposition—had absolute power and control and discretion over the whole matter. The authority which the President asks, so far as it relates to the transporting of Canadian goods in bond over our railways or canals, or so far as stopping the employment of Canadian railroads and canals by our shippers of goods, is already complete. I ask the Secretary to read sections 3005 and 3006 of the Revised Statutes of the United States.

The Secretary read as follows:

SEC. 3005. All merchandise arriving at the ports of New York, Boston, Portland in Maine, or any other port specially designated by the Secretary of the Treasury, and destined for places in the adjacent British provinces, or arriving at the port of Point Isabel in Texas, or any other port specially designated by the Secretary of the Treasury, and destined for places in the Republic of Mexico, may be entered at the custom-house, and conveyed, in transit, through the territory of the United States, without the payment of duties, under such regulations as the Secretary of the Treasury may prescribe.

SEC. 3006. Imported merchandise in bond, or duty paid, and products or manufactures of the United States may, with the consent of the proper authorities of the British provinces or Republic of Mexico, be transported from one port in the United States to another port therein, over the territory of such provinces or Republic, by such routes and under such rules, regulations, and conditions as the Secretary of the Treasury may prescribe; and the merchandise so transported shall, upon arrival in the United States from such provinces or Republic, be treated in regard to the liability to or exemption from duty or tax, as if the transportation had taken place entirely within the limits of the United States.

Mr. HOAR. My view of this matter is that the statute gives to the President of the United States or to the Secretary of the Treasury, who is under his authority and control, absolute power to do everything that he chooses in this matter, and to show that is the opinion of the Department itself and of the Administration, I desire to call the attention of the Senate to two circulars issued from the Treasury.

My proposition is that the transportation of merchandise coming from American railroads or canals or other modes of carriage through Canada is, by section 3006 of the Revised Statutes, to be conducted under such rules, regulations, and conditions as the Secretary of the Treasury may prescribe; and the moment the Administration was informed that this discrimination was made by Canada against our interests, the President had the right instantly to interpose and put an end to the entire traffic at once—just what he asks the special authority of Congress to do at the present time.

I desire to have read circular 102 and circular 116 of the year 1885.

The Secretary read as follows:

CIRCULAR.

TERMINATION OF CERTAIN ARTICLES OF THE TREATY OF WASHINGTON.

[1885. Department No. 102. Division of Special Agents.]

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., July 2, 1885.

To collectors of customs:

Notice having been given by the proclamation of the President, dated January 31, 1885, of the abrogation of Articles XVIII to XXV and Article XXX of the treaty of Washington, collectors of customs are hereby notified that article 844 of the Customs Regulations of 1884, which is identical with article 19 of the Regulations of March 30, 1875, made pursuant to Article XXX of said treaty, will cease to be in force from and after this date.

Shipments of merchandise in transit from one port or place within the territory of the United States to another by a route a part of which is by land carriage through the Dominion of Canada, and a part by the Great Lakes and the rivers connecting the same, or by the river St. Lawrence, in either British or

American vessels, from ports on the northern frontier of the United States to ports on the Canadian frontier for transshipment to railway cars, and from ports on the Canadian frontier, at the termini of railway transportation, to ports on the northern frontier of the United States, will hereafter be treated in all respects as ordinary importations from foreign contiguous territory.

DANIEL MANNING, Secretary.

Mr. HOAR. Now it will be seen that the Secretary of the Treasury, conceiving at the time that the twenty-ninth article of the treaty of 1871 was terminated, instantly exercised his authority under the statute of 1866, re-enacted by the Revised Statutes as section 3006, and declared that all merchandise coming from Canada as a part of the joint transportation routes should be subject to the ordinary customs duties, showing the opinion of the President and the Secretary who was the head of his Treasury Department that he possessed the ample power to accomplish this thing.

Now I ask the Secretary to read circular 116.

The Secretary read as follows:

CIRCULAR.

TRANSIT OF MERCHANDISE THROUGH THE DOMINION OF CANADA.

[1885. Department No. 116. Division of Special Agents.]

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., July 24, 1885.

To collectors and other officers of customs:

Under the authority contained in section 3006 of the Revised Statutes, imported merchandise, in bond or duty paid, and products and manufactures of the United States, may, with the consent of the proper authorities of the British provinces, be transported from one port in the United States to another port therein over the territory of such provinces, by such routes and under such rules, regulations, and conditions as the Secretary of the Treasury may prescribe.

Therefore, so much of Circular No. 102 of this Department, dated the 2d instant, as rescinded article 844 of the Customs Regulations of 1884 is revoked, and said article is hereby amended in such manner as to restrict the transportation therein referred to to American vessels. Customs officers will be governed accordingly.

The salaries of officers stationed in Canada to supervise transshipment from vessels to cars, and vice versa, must be reimbursed to the Government by the transportation companies interested.

DANIEL MANNING, Secretary.

Mr. HOAR. This is a repetition of the policy pursued in regard to the purchase of bonds. This Administration wanted to pile up a great surplus in the Treasury in order that it might be used as a lever or argument for an attack on our protective system, and accordingly they affected to have great doubts whether the act of Congress gave the Secretary of the Treasury power to expend that surplus in the purchase of the bonded debt of the United States, and after the mischief was all done and the surplus was distributed among the national banks of the country without interest, instead of being expended in the reduction of the accumulation in the Treasury, the President sent in to Congress a message saying that he thought he ought to have authority to expend the money in buying bonds; and on both Houses of Congress passing a resolution pointing out to him that he had the authority already, he said "On the whole I guess I have," and he proceeded to make his purchases.

Here is this Administration by two unmistakable, unquestionable acts affirming its authority to suspend this business as it sees fit or to impose upon it such terms, regulations, and conditions as the Secretary of the Treasury might see fit to impose, and yet with that power exercised on two important occasions—the exercise called out by our relations to Canada under the treaty of 1871—the President allows it to slumber during all these years when as he informs us these outrages on the part of Canada were going on, and even now refrains from its exercise and comes in and asks the Senate and House of Representatives to grant him a power which he knows perfectly well and believes already exists—

Mr. SPOONER. And he wants aid and counsel.

Mr. HOAR. And he wants the aid and counsel of Congress to enable him to exercise a power which he believes he has the right to exercise, and which his Secretary of the Treasury had twice already exercised during his administration.

I ask again, has the President of the United States called the attention of anybody to this wrong which it was fully in his power to have stopped and redressed at any moment? Did he call our attention to it in his annual message either of 1886 or 1887? Did he call our attention to it when, without a single suggestion that it was insufficient and did not reach this case, he signed the statute of 1887 passed by the two Houses of Congress? Did he call our attention to it when he sent in the treaty? How can he reconcile it with any national dignity or the national honor if the attention of the commissioners and envoys of Great Britain was not called to this when the treaty was negotiated, to have sent in a treaty declaring to us that it provided for every case of wrong which we were suffering from the Canadians on our northern border and being silent about this matter of informing us or the American people that a demand had been made on Great Britain which had been rejected, or if no such demand was made and his negotiators induced Great Britain to believe the treaty was full, satisfactory, and comprehensive of every cause of difference—how can he reconcile it either to our honor or our dignity if this treaty had been ratified to immediately after its ratification turn around to Great Britain and state, "Now that I have got this treaty signed I am going to declare non-intercourse with you on another ground, which I never mentioned during the entire negotiation?"

Now, see what he says in regard to our social and commercial intercourse in his message transmitting the treaty:

Our social and commercial intercourse with those populations who have been placed upon our borders and made forever our neighbors is made apparent by a list of United States common carriers, marine and inland, connecting their lines with Canada, which was returned by the Secretary of the Treasury to the Senate on the 7th day of February, 1888, in answer to a resolution of that body; and this is instructive as to the great volume of mutually profitable interchanges which has come into existence during the last half century.

This intercourse is still but partially developed, and if the amicable enterprise and wholesome rivalry between the two populations be not obstructed, the promise of the future is full of the fruits of an unbounded prosperity on both sides of the border.

The treaty now submitted to you has been framed in a spirit of liberal equity and reciprocal benefits, in the conviction that mutual advantage and convenience are the only permanent foundation of peace and friendship between States, and that with the adoption of the agreement now placed before the Senate a beneficial and satisfactory intercourse between the two countries will be established so as to secure perpetual peace and harmony.

Mr. President, if the patriotic and American spirit of a majority of this Senate had not scorned the surrender contained in the treaty just rejected, the American people would never have heard from the Executive a lip of a desire to affirm and maintain and defend and establish their rights of equality and mutuality in relation to the system of transportation between this country and the Canadian provinces. The Senate has called the attention of the public and the Administration to it. It has demanded from time to time of the Secretary of the Treasury the information in his possession, and it has got a few brief, meager lines which are contained in the communications which have come in. It has raised two special committees in addition to the investigation of the Committee on Foreign Relations to collect the facts on this subject which this dilatory and halting Administration has failed to deal with. These facts were set forth in part in the spirited and able speech of the Senator from Illinois [Mr. CULLOM], and they are set forth in part in the collections already made under the direction of the Committee on Foreign Relations; and it is idle for the President of the United States to undertake at this day to cover up his retreat, to cover up the surrender which would have been made but for the spirit and patriotism of the Senate, by undertaking to come to the front in regard to this matter.

Mr. MORGAN. Mr. President—

Mr. HOAR. Will the Senator from Alabama allow me a word before he proceeds?

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

Mr. MORGAN. Certainly.

Mr. HOAR. I desire to add one sentence which I accidentally omitted when I was on the floor. I desired before I sat down to say that for myself, and no doubt for this side of the Chamber—I have no right to speak for them; of course I do not know the opinion of a large majority of the Senators—I should be in favor of giving to the President of the United States any authority in this matter which on examination shall be found in any respect to be needed. There is no difference of opinion on that subject.

Mr. MORGAN. Mr. President, the message which came in yesterday afternoon and has been read this morning seems to have given a great shock to the Senators on the other side of this Chamber. The first effect of it was to cause the Senator from Vermont [Mr. EDMUNDS] to interrupt the Senator from Iowa [Mr. WILSON] in his loved employment of speaking upon the political situation in the South, and to ask him to give way until he could make a motion to adjourn.

Mr. EDMUNDS. I may interrupt the Senator to say that he is entirely mistaken.

Mr. MORGAN. Am I?

Mr. EDMUNDS. You are.

Mr. MORGAN. Then I am mistaken in what my eyes revealed to me.

Mr. EDMUNDS. The Senator is mistaken, if he will pardon me. Of course it is a matter of no public consequence. I had suggested, as the Senate Chamber was nearly empty, and knowing nothing of the contents of this paper which he is now speaking of, to my friend from Iowa that he had better let us adjourn, and he said that the moment he got to the end of the paragraph he would, and he did.

Mr. MORGAN. And thereupon, being very greatly surprised at what was going on here, and that the President of the United States should be treated with such excessive discourtesy, to say the least of it, I informed the Senator from Vermont in the open Senate that a message had been brought into this body which related to the fisheries treaty, and thereupon the Senator from Vermont informed the Senate and myself that the reading of that message could wait.

Mr. EDMUNDS. That is true.

Mr. MORGAN. Thereupon, in order possibly to get the Senators on that side of the Chamber to forget the dictation of their caucus arrangement for a little while upon this matter, I called the yeas and nays, and the vote revealed a party division upon the question as to whether the President's message should be read, for that was the substance of it. We are not in the habit of adjourning at 4 o'clock these afternoons when the business of the Senate is very pressing.

Now, this morning, without our having had an opportunity to read the message, except through the indulgence of the House, finding it in

the RECORD in the House proceedings, not having heard it read at the desk of the Senate on yesterday, we are precipitated into a debate about it. But I wish to say to the Senator from Vermont that his tactics are not available. There is no precipitation of debate that can ever put the friends of this message and of the President of the United States in the slightest degree of trepidation or bring to us the slightest degree of discomfort, because he has laid before the people of the United States in such a clear, manly, true, and American way the actual situation in respect of our relations with Canada that no covering up, no finesse, no apology, no excuse, no *post mortem* examination of this caucus victim that has been thrown before the country can have any possible effect to disparage or in any way to lessen the weight and influence of that message upon the honest American mind.

Mr. EDMUNDS. Will the Senator from Alabama pardon me for a moment? Referring to the most important part of this whole affair, and that is a discourtesy to the President of the United States, which I should be the last man knowingly to be guilty of, in adjourning with the message on the table, I find on taking up the CONGRESSIONAL RECORD of this very day, that yesterday morning there was laid before the Senate immediately after the Journal was read, no less than six messages from the President of the United States, which had been delivered to the Senate on the day before or some preceding day, and which had not been laid before the Senate because it was convenient for the Senate to adjourn before they were; and so it is the case almost every day in the session.

Mr. MORGAN. We do not know what the reason was for withholding the reading of those messages until yesterday morning. That is a matter of no consequence at all. But in this case attention was distinctly called to the fact, and the Senator from Vermont knew what the message related to. Therefore it was nothing else, I think—we feel that it was nothing else—than a petulant effort on the part of the Senator from Vermont to show the President of the United States that he entertained a sovereign contempt for him. Well, sir, I believe the President of the United States and the Democratic party both can stand that without the slightest tremor in their nerves. I think we shall survive that. The Senator from Vermont withheld his advice, which is so very valuable to the people of the United States, during all of the long discussion upon the treaty. He did that, I dare say, because he did not think that it was appropriate to speak upon that treaty or upon any treaty in the open sessions of the Senate; and yet the Senator thought that it was appropriate by his vote to force us to do it. His vote would have saved us from that necessity. His vote would have saved this country from all the scandal and clamor and vituperation that has gone out of a political character against the Executive and against the policies of his administration.

That honorable Senator forced by his vote the Democratic party to an open defense of this treaty and to allusions to every fact that was possibly in reach in its defense and in its support, and he retired from the Chamber in lofty indignation at the idea that we would undertake to debate a question in open session that we were forced to debate by his own vote. Perhaps if we had enjoyed the advantage of his counsel during the progress of that negotiation we might have arrived at some amendment of the treaty, for it was amendable, by which the President of the United States would have been saved the necessity of sending in this message and trying to get us to adopt a policy which he thinks is a wise one and is least dangerous to our own people in trying to correct what is wrong and unjust and violative of treaty obligations on the part of Canada.

But in the progress of this whole affair, from the time the President sent his first message into the Senate in 1886 down to this moment, it now turns out, as we think the evidence clearly establishes, that the purpose of all this opposition to the President in respect of his dealing with these fisheries has not been to get the interests of the people of the United States into a better shape, but it has been to entrap the Executive, to put him in side lines, in a political strait-jacket. The effort seems to have been to put him where he would do the bidding of the representatives of the minority of the people of the United States who have in this Chamber the majority and deprive him of the option to do anything else than what they required and commanded. This party have gone so far that they have even threatened him with impeachment if he dared to disobey their commands and to counter-vail their will. I do not know that I was ever more disagreeably astonished in my life than I was when I read in the majority report of the Committee on Foreign Relations upon that treaty the language I will now put in the RECORD.

These "plenipotentiaries"—

Say that committee—

Mr. EDMUNDS. On what page?

Mr. MORGAN. I am reading from the RECORD, page 8509, an extract that I made from the report.

These "plenipotentiaries" came to a conclusion of their labors on the 15th of February, 1888, and the offices of "plenipotentiaries" terminated, and the result was reached without the advice and consent of the Senate having been asked or taken concerning the selection of these public ministers, and without any communication to either House of Congress concerning this most important subject.

It is not difficult to see that, in evil times, when the President of the United

States may be under influence of foreign and adverse interests, such a course of procedure might result in great disaster to the interests and even the safety of our Government and people.

That declaration in their report has been followed by frequent asseverations that the President of the United States was under the influence of foreign and adverse interests, and that he was conniving at and attempting to assist the British interests in the treaty of 1888, which he laid before the Senate, and which we rejected.

The report proceeds:

It is no answer to this suggestion to say that an arrangement thus concluded can not be valid or effectual without the advice and consent of the Senate, for the rights and interests of the people of the United States might be so neglected, misunderstood, abandoned, or sold by President's "plenipotentiaries" as to greatly embarrass if not defeat their ultimate reassertion in better times and under better administrations, though it is hoped that such will not be the case in respect of these negotiations.

The word "hoped" is used there for the purpose of indicating that it is the belief of the committee that such will be the result. It is their expectation that such will be the result, but hoping, however, against hope, they pray that it may not so turn out.

The report further proceeds:

The document submitted to the Senate by the President as the outcome of these negotiations may, it is thought, well illustrate the dangers of such methods.

But holding in reserve for the time being these grave questions touching usurpations of unconstitutional powers, or the abuse of those that may be thought to exist on the part of the Executive, the committee thinks it sufficient for the present occasion to deal with the document itself.

That is a distinct threat. Withholding for the present any dealing with the President of the United States in this matter, they think it is quite "sufficient for the present occasion to deal with the document itself"—the treaty. The dealing that they propose to have with him is in respect to the alleged abuse of his constitutional power.

The subject with which, according to the message of the President transmitting it, this document professes to deal is "the settlement of the questions growing out of the rights claimed by American fishermen in British North American waters."

The Senator who prepared that paper never means anything but what he says, and he never says anything idly. Therefore those who read these paragraphs in the report of the majority understand that one distinct feature of this movement was that the President of the United States was to have a rod held over him, and in the event that he did not see proper to conform his policy to suit the wishes of the majority in this body or to suit the wishes of the majority of the Committee on Foreign Relations he might expect hereafter that these alleged abuses of his constitutional powers will be brought in judgment against him.

I am very much gratified to know that the President is not alarmed at this at all. I think the country appreciates the fortitude of the man who can stand up against the utterances of the honorable Senator from Vermont and with cool, quiet complacency still pursue the line of duty without tremor and without any departure.

So we like him better since this message has come in. We have more confidence in him since he has been able to withstand this terrible rebuff. We think more of him since he has been able on this and on all other occasions to exercise the high functions of his executive office in the choice of the measure which he considers that it is necessary to pursue and the best to pursue in order to deliver and relieve his country from embarrassments growing out of misconduct of our neighbors in Canada.

The Senator from Vermont, at the head of the subcommittee about which he has spoken to-day, made a declaration to this body which I shall read. After having summed up the evidence taken by that committee, and having gone over a historical review of many of the facts connected with our treaty and other relations with Canada and Great Britain regarding the fisheries, he proceeds to say—

Mr. EDMUNDS. On what page?

Mr. MORGAN. Page 583.

It will be seen from the correspondence and papers submitted by the President in his message on the subject, of the 8th of December last (Executive Document No. 19, Forty-ninth Congress, second session), and from the testimony taken by the committee, that some of these instances of seizure or detention, or of driving vessels away by threats, etc., were in clear violation of the treaty of 1818, and that others were on such slender and technical grounds, either as applied to fishing rights or commercial rights, as to make it impossible to believe that they were made with the large and just object of protecting substantial rights against real and substantial invasion, but must have been made either under the stimulus of the cupidity of the seizing officer, sharpened and made safe by the extraordinary legislation to which the committee has referred, whereby the seizing officer, no matter how unjust or illegal his procedure may have been, is made practically secure from the necessity of making substantial redress to the party wronged, or of punishment, or else they must have arisen from a systematic disposition on the part of the Dominion authorities to vex and harass American fishing and other vessels so as to produce such a state of embarrassment and inconvenience with respect to intercourse with the Provinces as to coerce the United States into arrangements of general reciprocity with the Dominion.

Now, a more distinct arraignment of a government was never made than was thus made by the Committee on Foreign Relations of this body, of Great Britain for the actual, willful, intentional violation of the treaty of 1818, with the exception that the Senator from Vermont in preparing this indictment against Great Britain did not specify the particular instances in which Canada had willfully and intentionally violated the treaty of 1818. He made a broad sweep at a very large number of cases which had occurred before that time, not stopping in

his examination of them until he got back to the beginning of the treaty, so that all antecedent acts on the part of the provincial courts and authorities of which complaint was made in this report are referred to in support of the proposition that the treaty of 1818 had been intentionally and willfully violated by the Government of Great Britain, and that the acts, which are mentioned in a general way, of seizures and detentions, and driving vessels away by threats, etc., were in clear violation of the treaty of 1818.

I repeat that nobody can draw a paper in which a clearer accusation is made against the Government than is made in this report of the willful and intentional violation of the treaty of 1818 by the acts which are referred to in the preceding part of that document.

That report was made on the 19th day of January, 1887, and it was upon that report that the act of March 3, 1887, proceeded, which the Senator from Vermont now insists, as I understand him, was mandatory upon the President of the United States that he should enter upon retaliation and should abandon any resort to his constitutional right of attempting to get through with these troubles with Canada by the exercise of the treaty-making power.

The act of March 3, 1887, was carefully prepared by the Senator from Vermont so as to throw the entire responsibility of action upon the President. It was entirely competent after the declaration which he made in this report for him to have prepared a law containing as a recital, if you please, the matter set out in the report in *hæc verba*, and commanding the President of the United States because the treaty had been violated to proceed to retaliate, and then to have supplied him with the men and means to have made that retaliation effectual.

Here is the declaration, followed by what? By an act that left it in the discretion of the President of the United States to do or not to do these things. In the debate which attended the passage of that law, the Senator from Missouri [Mr. VEST] wanted to know whether it was the purpose to force the Government of the United States into retaliation as the result of the action of Congress upon this question. The House of Representatives had passed a law very similar in its tone and purport with that which the Senate passed, but containing the additional stipulation—I do not quote the language, but I quote the substance of it—that the President of the United States should have the right by proclamation to exclude railway trains from coming into the United States, and thereby shut out completely intercourse between the people. Not merely commercial intercourse, but also, necessarily, to a large extent to prevent intercourse of a social character, to prevent families from having the opportunity of visiting each other, to prevent our delectable bank-robbers from having a chance of making a ready escape into Canada for the purpose of getting rid of responsibility to the law and finding shelter there.

The provision on that subject about which the Senator from Vermont has been reading from the report of the committee of conference has no sort of relation to the subject of the passage of goods in bond back and forth between these countries, not the slightest, as it was found in the House bill. That subject was left to be disposed of according to the treaty of 1871, and according to the laws of the United States based upon and enacted in connection with that treaty. When the Senate conferees objected to the conferring of this enormous power into the hands of the President of the United States, the objection was distinctly based upon the ground that it was too near an approach in our legislation to actual hostility. The ground was taken in debate by myself and other Senators that when we prohibit intercourse between the people of two countries, then we have got to a position where we would not be able to hold our own people in restraint, as I announced on that occasion, and could not do it for a month at a time unless we involved the countries in a state of actual war.

Mr. SHERMAN. I should like to ask the Senator from Alabama a question to see if I understand him. Does he claim that the twenty-ninth article of the treaty of 1871 was abrogated by the later notice?

Mr. MORGAN. I have not got to that, Mr. President; I am not near that.

Mr. SHERMAN. I understood the Senator to say—

Mr. MORGAN. The Senator will please indulge me. I shall discuss that question, but just now I do not want to have it interpolated in this particular part of my remarks.

What I am discussing is this: What power was it that the Senate committee of conference wanted to deny to the President of the United States in respect of this act of retaliation? It was the power to prohibit actual intercourse between the people of Canada and the people of the United States so far as the running of railroad trains was concerned. That was the whole thing. It had no more reference to the question of the transshipment of goods in bond through Canada to the United States or through the United States into Canada than it had to one of the Psalms of David. The subjects stand entirely apart, and so great a lawyer as the Senator from Vermont is confessedly placed in a questionable attitude before the people of the United States when he undertakes to discuss these questions as if they were one, or as if they were of the slightest kin to each other. We did not want—I did not want to put the discretionary power in the hands of the President of the United States, not that I distrusted him, to forbid intercourse between the United States and Canada absolutely as a measure of retaliation, but because I do not be-

lieve that in the absence of a declaration of war by Congress we could put a measure upon the statute-book that was more warlike in all its aspects than just that.

If we were to pass an act to-day that the people of Mexico and the people of the United States should not pass the border, that the railroad trains should not deliver freights to each other, that there should be no commercial intercommunication and no means of transit between the two countries, we would place ourselves in such an attitude towards Mexico as that a war would become necessary within a month's time. The Congress of the United States has not got the power to hold the American people back behind an imaginary line—on our side of it—by an enactment of that kind, until they bring the war power to bear; declare a state of actual war between the two countries, and then bring into actual operation all of the great and arbitrary powers which belong to a state of war.

So when the House of Representatives, as I thought, without due consideration, brought forward that feature in that bill, it occurred to me that for no purpose whatsoever relating to the then relations between the United States and Canada could that be supported as wise legislation, and I opposed it for that reason, and so stated on the floor of the Senate.

In all of that debate, so far as I remember it, and I think I do remember it, the question of the transshipment of fish in bond was not even alluded to. On the contrary, this report of the Committee on Foreign Relations before me shows that it was then the belief of the committee that the legal relations between the United States and Canada were such, whether they grew out of the treaty of 1871 or out of our own acts of Congress, as that goods might be admitted from Canada in bond and passed through our country without the payment of duties, and, on the other hand, that goods might pass through our country into Canada in bond, upon like terms. There was no disposition at that time to disturb that relation between the people of the United States and the people of Canada, for then this question of the proper way to deal with the fisheries question had not got into the narrow condition and shape that it is now, since the rejection of the treaty of 1888.

I am compelled here to make a statement which I regret the necessity of making at all. In 1886 and 1887, when we were passing this retaliation law, we were looking forward to some means of healing up the difficulties between Canada and the United States which had so long embroiled the two countries. Every man on the floor of the Senate knew that the time would arrive sooner or later in his history or in that of a successor in office when he should have to consider this matter upon a treaty between the two countries. If we retaliated and Canada yielded we could not consent that that retaliation and that yielding or concession should be a mere ephemeral matter that would pass away in a day. It was obligatory upon us and the Government with which we were dealing that whatever conclusion might be reached between the two, whether under the stress of retaliation or whether by a consensus of opinion or an agreement absolutely obligatory upon both governments, the final result should be stated in an agreement between the two countries, and be ratified as a treaty.

Why was this necessary? Because, as has been so often repeated in the debate upon the treaty of 1888, the interests between the people of Canada and the United States in these fisheries are joint interests—interests that can never be controlled and regulated by laws of retaliation. Two partners can not conduct business jointly when they are continually endeavoring the one to swindle the other, or when one is trying to get the advantage in accounts of the other, or when one is evincing a personal hostility to the other, or when one is interfering with the affairs of the other. Much more so is it the fact in respect of the joint tenancy in the fisheries, where men must anchor their ships side by side upon the banks and fish together, or where they must draw their seines if they are near the shore in the same waters, or where the bait that they throw upon the waters shall attract the fish so that each vessel may catch the fish from its own deck. So every Senator, when he was considering this retaliation law, knew that the only effect of it that was possible was to bring Canada nearer to the line of what we believed to be correct in her dealings with us, and that we could thereby establish a basis and foundation for a new treaty upon which we would, as we hoped, be soon required to act. Therefore in the discussion of that law of retaliation I was discussing a law that was looking to a treaty as its result. But it appears the Senator from Vermont was discussing a law that looked to war for its result.

I was not for retaliation then for the purpose of destroying Canada, much less for the purpose of destroying our own people. I was for putting it in the power of the President of the United States to retaliate and thereby to convince Great Britain and Canada that we had armed our own local authorities here with power enough to rectify whatever of wrong they might do us, and that we meant to execute that purpose unless they came to some wise and just and honorable agreement with us. If there was a Senator on this floor who had it in his mind to do something else, let him avow it. If there is a Senator here who believed that it was the duty of the President of the United States immediately to proceed to retaliate upon Canadian commerce for injustice and wrong which before that time had been done to us, let him avow it.

Mr. EDMUNDS. Lest by silence I should be taken by the public—and I am very sensitive about that—to have acceded to all that my friend says, I wish to state, if he wants me to answer him now, that I am very far from avowing that anybody in the Senate thought the President under the law was to proceed to obtain redress for matters that had occurred before the passage of the law, unless they had then very recently occurred, for the statute itself, which my honorable and distinguished friend was so useful in helping to frame, provided that the occasion for the President's action should be something which when he came to act should have then recently occurred. We were looking undoubtedly chiefly to the future.

But I must say also in answer to my friend's question that I had no expectation and I did not know anybody then who had, that it was a lever for a treaty, and that that was all it was. The report of the committee, I believe, was carefully read over to every member of the committee, in 1887, and all concurred in it just as it was presented to the Senate; and I think that it is difficult for anybody now to read that report and fail to understand that the report thought the case could be much better treated by legislation than by negotiation, as all our relations with Canada, except for two short intervals that were referred to, had been carried on by what is called retaliation on former occasions until reciprocal legislation adjusted them. That is as far as I ought to go as a mere answer to my friend's question.

Mr. MORGAN. I think the Senator ought to go a good deal farther.

Mr. EDMUNDS. Then I will, if you desire.

Mr. MORGAN. I think the Senator might answer with a good deal more clearness than he has yet on this occasion. His answer was in one particular pretty clear until by his subsequent remarks he got it thoroughly under a cloud and in a fog.

Mr. EDMUNDS. Let me try it again.

Mr. MORGAN. I object to your trying it any more until I have discussed all that you have already laid before us. The Senator says that there were some events of a then recent occurrence in respect of which he thought retaliation would and ought to take place.

Mr. EDMUNDS. No, I did not say that.

Mr. MORGAN. Then I misunderstood him.

Mr. EDMUNDS. You have misunderstood me, if I may interrupt you.

Mr. MORGAN. Yes.

Mr. EDMUNDS. I say that the law having passed, the statute was carefully framed not to go into a retaliation for the events which had taken place, but it may have been dependent upon what the President found to have been then recently occurring. The act was passed on the 3d of March. If on the 2d of March, for instance, or the 28th of February, or the 1st of February, or the 1st of January, there was a case where, in a fair and public sense, a great official like the President of the United States would say this outrage has now recently occurred which Congress was looking to, he was authorized to act. He had a right to go behind the date of the act in that respect, because the description of the event upon which he was to act was made as clear as it was possible for language to make it.

Mr. MORGAN. That committee in its report gave a statement of cases by name, by the date of the occurrence, and some memorandum also of the facts upon which the committee thought that the Government of the United States might properly make the declaration which the committee drew up with so much of clearness and force, that the treaty of 1818 had been violated willfully and intentionally by Great Britain. There are the cases stated by the Senator from Vermont, and there is the declaration, and some of those cases were then very recent.

Mr. EDMUNDS. What was the last date?

Mr. MORGAN. I do not know that these are put here in chronological order so that I would be able to give the last date.

Mr. EDMUNDS. Do not give yourself trouble about it. I will look it up.

Mr. MORGAN. The Senator can easily find it, because he has presented the list of cases to which he of course thinks his remarks made in this report have the greatest application. Then the Senator drew this law. If he knew the cases then recently occurring that violated the treaty of 1818, why did not the honorable Senator put those cases in and make them the basis of legislation? Why did he not say to the President of the United States, "These cases have occurred, and this treaty has been violated, and here are the facts lying before you; and the Congress of the United States declares in a bill that retaliation shall take place, that the time for negotiation has ended, and that these cases are not a fit subject for negotiation?" Why not put all that in your law instead of requiring of the President of the United States first that he shall ascertain at his own peril what cases there were that were in the mind of the Senator from Vermont that he did not put in black and white upon any sheet of paper; why did not the Senator state the cases that had then recently occurred, or "lately" in the language of the act? Why was not all this disclosed, if the object of this legislation was to compel the President of the United States to put our commercial interests in jeopardy by declaring an embargo between us and Canada? Why were not the cases mentioned? Why

was not the event specified? Why did not the honorable Senator from Vermont have the courage to come up then and say, "I will accept the responsibility as a legislator, and I will declare here in the presence of the world, not merely that this treaty has been violated, and willfully and intentionally and purposely violated, but it has been violated in these recent special cases that I now mention, and here is my remedy for that?" Why was not that done, instead of leaving it to the discretion of the President of the United States to ascertain these cases and act upon them? Instead of making it the duty of the President to hunt up something that is hidden from him, why did not the Senator from Vermont come boldly forward and say, "I will make the declaration of what the American duty is, and Congress shall back it, and we will have retaliation upon these people?"

I take occasion here to repeat a remark that I put into that minority report, that if it was the actual intention of the framers of this law to compel retaliation for what had occurred before its enactment, then the Congress of the United States abdicated its duty, and in a way that gives no credit to it at all, when it attempted to shift the responsibility upon the shoulders of the President of the United States.

In a matter that came before the Committee on Foreign Relations recently about three ships or three ship companies we made demands upon a little government for redress for some injuries that we asserted had been done to those men, who were acting under a contract with that government, which had been violated and abused and broken. We brought in, through the chairman of the Committee on Foreign Relations, a joint resolution, which is now upon our table, in which we declare that Venezuela is in default about this matter, and that she must be made to settle speedily—I am not quoting the language—and all the forces of the United States are put by that joint resolution at the command of the President of the United States to compel settlement to be made. That means a declaration of war most plainly unless Venezuela pays the money within some reasonable time, or unless she enters into some negotiation or arrangement by which that money is to be paid.

Suppose you had put the language of the joint resolution in the act of 1887, then the President of the United States would have had no doubt or difficulty about the meaning of the law. But instead of doing that there is that sort of shambling about the matter which Canada and the people of the United States alike understand to amount to a mere declaration on our part that the causes which had lately taken place, some of which we did not specify, would justify us in retaliation if the President saw proper to resort to it; and if such occasions arose in the future that they would justify retaliation. But even in respect of that it was left to his discretion whether he would issue his proclamation or not.

Now, I will read the language of this act, because it becomes important in this connection to show precisely what it was that the Congress of the United States required the President of the United States to do:

That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are or then lately have [been] unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights, or otherwise unjustly vexed or harassed in said waters, ports, or places.

The President must be satisfied that these things have occurred. The Senator from Vermont was satisfied that they had occurred. He so stated in his report, but instead of expressing that conclusion of his own honest mind in an act of Congress and predicating his legislative action upon that, he abdicated the duty of directing the President of the United States to proceed to retaliate and retired to the ground of leaving it to the President to become satisfied, as he was satisfied.

The President of the United States has a right to be excused, notwithstanding the omnipotence of the Senator from Vermont in the Republican party, from taking his counsel on every occasion and under all circumstances as being infallible. The Senator from Vermont very modestly declined to put himself in the front of this matter and to assume the responsibility which every fair-minded man in this world would say devolved upon him after the declaration he had made in the report upon which the bill was predicated, that Great Britain had violated intentionally and willfully the treaty of 1818. He had not only made a statement of that kind in the report, but had gone on to argue in a most scathing manner against the Canadian authorities, that they had done it in this way, in that way, and the other way, all and each of which were utterly disreputable in their motives. Then the act of 1887 proceeds:

Or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places, in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places, in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favored nation, or shall be unjustly vexed or harassed in respect thereof, or otherwise be unjustly vexed or harassed therein, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favored nation.

That is the second branch of the subject upon which the President is to be satisfied. Then there is a third:

Or whenever the President of the United States shall be satisfied that any other vessels of the United States, their masters or crews, so arriving at or being in such British waters, or ports, or places of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters or crews, of the most favored nation, or unjustly vexed or harassed in respect of the same, or unjustly vexed or harassed therein by the authorities thereof, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of, or within the United States (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies as to the President shall seem proper), whether such vessel shall have come directly from said dominions on such destined voyage or by way of some port or place in such destined voyage elsewhere; and also to deny entry into any port or place of the United States of fresh fish or salt fish, or any other product of said dominions, or other goods coming from said dominions to the United States. The President may, in his discretion, apply such proclamation to any part or to all of the foregoing-named subjects, and may revoke, qualify, limit, and renew such proclamation from time to time as he may deem necessary to the full and just execution of the purposes of this act.

Then come the penal parts of the statute, which punish with considerable severity any violation by any person of a proclamation of non-intercourse or of retaliation that is issued by the President of the United States.

There was a very broad field of power conferred upon the President of the United States to be exercised upon two predicates. The first was that he must be satisfied of the existence of these wrongs, and the next was that he must consider that, in his discretion, this is the best way to reach the subject and cure the evil.

If the President of the United States had gone forward under that act and had declared non-intercourse or had precluded by proclamation the coming of railroad trains loaded with passengers, supplies, timber, coal, iron, or anything else than fish, he, sir, would have gotten himself not only into the hot water that had been already heated for him, but he would have gotten this entire country embroiled, perhaps, in a war.

The language is "cases then lately occurring." Why was it that the Senator from Vermont put his statute of limitations upon the power of the President to inquire into these matters? When was "then lately?" Cases that had occurred in one year, or two years, or ten years, or twenty years?

Mr. GEORGE. Or three months?

Mr. MORGAN. Or three months. They were to be "cases then lately occurring."

Mr. President, there was a reason for that. That honorable Senator had been connected with distinguished administrations of this Government for many years back, holding a seat in the Senate of the United States and being of just right its leader on that side of the Chamber in almost every particular. He knew all about the treaty of 1871. He knew all about the history of these fishery controversies. He knew of the large number of cases lying back through Republican administrations as well as Democratic that had been unadjusted, which cases contained every feature and form of vexation that is found in those which had occurred during the present Administration; but he wanted to put a statute of limitations in there to prevent the President of the United States from resorting to retaliation, when his party before that time had not done it when they had possession of the Government by a two-thirds majority in each House, and knew of all these occurrences and had never opened their mouth in the way of protest.

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

The PRESIDING OFFICER (Mr. BERRY in the chair). Does the Senator from Alabama yield to the Senator from Vermont?

Mr. MORGAN. Yes, sir.

Mr. EDMUNDS. I am sure that my honorable and distinguished friend from Alabama would not mean, even by implication, to make a misstatement or a distortion of the truth; and so I must assume that my friend from Alabama has forgotten that from 1854 to 1865, speaking roundly, there was no reasonable possibility of any occurrence connected with the fisheries taking place which would be of any special consequence; and that he also knew that from 1871 to 1885 a similar condition existed. Therefore it would not be quite just in him to say that the motive of the Senator from Vermont was ostensibly trying to do his public duty as one citizen of the United States charged with some part of its interest, to draw a contrast between a Democratic and a Republican administration and make a statute of limitations.

I submit to my friend from Alabama that he on reflection will be satisfied that that not only is not just, but it could not be, from the circumstance that the 1st day of July, 1885, was the first ending of the arrangements which produced—which saved us from any discontent—I will put it in the strongest way, stating it as he would; and that the treaty did not practically terminate (whatever overstepping of boundary there might have been by Mr. Bayard with the best intention) until the end of the fishing season of that year. There was, therefore, no contrast to be drawn.

Then, if I may remind my friend, he was a member of the Committee on Foreign Relations. He was as much consulted as, perhaps more than, any other gentleman in committee; and he is just as responsible for every

part of that report (which I should be glad if I were alone responsible for, as a mere matter of pride, but I have no right to claim it) and for the language of the act itself which his great ability and skill helped to frame as the humble Senator from Vermont.

I submit to him, therefore, that it is not quite just to say that the Senator from Vermont was looking to party considerations in the framework of that bill.

Mr. MORGAN. Mr. President, there was a period prior to 1854, reaching back to 1818, during which there was a terrible record made of occurrences and wrongs by Canadians and provincial authorities, and oftentimes by the British navy, against the fishermen of the United States, and with the exception of the cases of the Washington and the Argus, which were arbitrated before the commission that was organized under the treaty of 1853, no redress had been sought for those evils, and they remained there rafted up in vast masses of wrong at the time that that report was written, when they are referred to.

Mr. EDMUNDS. But, Mr. President, if my friend will pardon me, as we are trying to get at the truth, the Senator will certainly agree that the convention of 1853, of which the Washington and the Argus were two instances, covered every previous wrong of a similar character, and all the cases that could be proved were allowed, and those that could not were disallowed. There was nothing, therefore, left to the action of the commission by the treaty of 1853 that the United States had the slightest right to complain of.

Mr. MORGAN. The treaty of 1853 was a convention for the purpose of settling damages that were due from the Government of Great Britain to our citizens individually and personally. It did not take into consideration any national questions at all, such as dishonor of the flag, invasion of the treaty. No question of that sort came before the convention of 1853, and it could not come before it. The Government of the United States, whose flag had been dishonored and outraged, had omitted to make any demand of reparation for these private citizens; but a convention was formed in 1853 to consider the question of damages between a private individual of the United States and a foreign government. Then they came in of their own motion and got their damages; and now, because the private citizen got his money for the property that was taken from him, it is argued by the Senator from Vermont that that was a condonation and a healing up of all the international questions concerning the construction of the treaty of 1818 and the wrongs that had been done to our flag and country.

No, sir, those questions remain there undisposed of. They were violations of the treaty, not the mere capture of private property under circumstances that did not warrant capture. What the Senator from Vermont complained of in his report was the persistent and intentional violation of the treaty by these governments, not by their petty courts in the colonies or elsewhere. That is not the question—far short of it.

Mr. EDMUNDS. The Senator says that the treaty of 1853 did not cover these subjects, and so on; but the fifth article says:

The high contracting parties engage to consider the result of the proceedings of this commission as a full, perfect, and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention—

Whether presented to it or not. I appeal to my friend to say what public claim the United States had against Great Britain after this treaty of 1853-'54 had been executed.

Mr. MORGAN. After the Senator from Vermont has spent twenty years in the Senate of the United States and is one of the most eminent jurists in the country, that he should put a question of that kind to me surprises me. It astonishes me that he should attempt to identify the governmental responsibility between these two great powers for the violation of the treaty, with settled purpose, with the claim for damages to which that convention of 1853 clearly limits the jurisdiction of that commission. I do not think I need to occupy my time in going over that ground on the floor of the Senate. I prefer to pursue the tenor of the argument that I was making.

Then, here we have these unrequited evils, these misinterpretations of the treaty, these abuses of our fishermen in violation of the treaty of 1818 by the colonial legislatures, which is complained of in this report, and that occurred before 1854. Then came a period between 1865 and 1871 during which all of these troubles that have been engendered always by the treaty of 1818, when it came into control of the relations between the two countries, flared up into a bonfire. The whole country was in anxiety and in distress because of the renewals of these troubles between 1866 and 1871.

This treaty of 1871 was put into the extraordinary form that it was in order that the Republican party might buy its peace rather than meet these questions face to face and settle them. We gave the Canadians fishing rights down our coast to the thirty-ninth degree of north latitude, which they did not have before. We gave them, as it turned out, five and a half million dollars in money for the purchase of this peace, and we gave them free fish and free fish-oil.

That was considered good Republican doctrine then, and we used the fishery rights and all of the influences to be brought to bear upon British and Canadian cupidity by agreeing to large relaxations of the duty on fish, in making the treaty of 1871, in order to get money from the British Government to pay over to the insurance companies

of the country, to compensate them for their losses by the Confederate cruisers.

I do not wonder that the Senator from Vermont wanted Mr. Cleveland to limit his proclamations of non-intercourse to cases then lately occurring, but it would have been a most convenient thing, an entirely just and manly thing, when these cases were put for him to consider and to investigate and to act upon, that there should have been some indication of what those cases were and what was meant to be included in the words "then lately." I think it was nothing but a trap set for the President. That is my judgment about it.

Mr. BECK. Suppose he had done then what he wants to do now?

Mr. MORGAN. The Senator from Kentucky asks me this question: Suppose that he had done then what he asks the authority to do in this message, what would we have done about it? We would have said, "You are acting outside of your authority; we did not put in that power at all; we did not give you any jurisdiction and control over that branch of the subject. It was not even debated in the Senate, it was withheld; and all we gave you the power to do was to prevent ships and goods from coming into the country, not from passing through it in bond. That subject was not mooted." And if he had done it I suppose that the threat which I have read here would not have been held in reserve, but it would have been executed or attempted to be executed against him by presenting articles of impeachment against him.

This report of the majority of the committee on the treaty of 1888 went into the question, to some extent, about the twenty-ninth article of the treaty of 1871, and says:

In February, 1883, however, as the period was approaching when these provisions could be terminated on notice, both Houses of Congress unanimously (or certainly without any division) passed resolutions terminating Articles XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXX, and XXXII of said treaty, which articles covered the whole fishery subject as well as certain matters of navigation, etc. This termination took effect on July 1, 1885.

By the twenty-ninth article of the same treaty, which is still in force, the United States engaged that all goods, wares, and merchandise arriving at certain ports named and destined for the British possessions in North America, should have entry and transit without the payment of duty, and it was reciprocally agreed on the part of Great Britain that all goods, wares, and merchandise arriving at any of the ports of British North America and destined for the United States, should also have the right of free entry and transit to the United States, etc.

That the foregoing mentioned article of the treaty of 1871 covered and included the transmission of fish from American fishing vessels as well as other goods is evident, not only from the plain and comprehensive language of the article, but from the statements of the formal British case laid before the Halifax Commission in 1877, wherein the right of the transshipment of fish from Canadian ports to the United States free of duty, covered by that article, was made the ground of claim for compensation.

So this committee commit themselves absolutely to the proposition that the right of transshipping fish by American fishermen was included in the twenty-ninth article of the treaty of 1871.

They then proceed to the following deduction:

It inevitably follows:

1. That the right of American fishing vessels to transship their fish from Canadian ports to those of the United States was not derived from the fisheries articles and did not depend upon them;
2. That such right clearly existed by force of Article XXIX and did not depend upon any other; and
3. That Article XXIX not having been terminated, the right of American fishing vessels to enter Canadian ports for the purpose of transshipping their cargoes is as clear and unquestionable as that of any other American vessels.

Under the treaty of 1871, with all the privileges granted to Americans in respect of fishing in British waters, the practical result was the diminution of American fishing interests and a corresponding large increase of the Canadian fishing interests, owing to the superior facilities of the Canadians in fishing near their own homes, and their right guaranteed by that treaty to dispose of their fish in American ports free from all duties and impositions. It was this, doubtless, that led the British Government to refuse to terminate the fisheries article of 1871 when it had already obtained \$5,500,000 as the established recompense for the superior (alleged) advantages obtained by American fishermen under that treaty.

After the final termination of the fisheries articles of the treaty of 1871, it being apparent that the United States could not be persuaded or beguiled into a renewal of the so-called reciprocity with Canada, the former methods of unfriendly coercion and harassment were again resorted to and with great exaggeration. New Canadian laws, sanctioned by the home government, were enacted, calculated and evidently designed to effectually frustrate and destroy all the substantial rights that American fishermen were entitled to enjoy under the treaty of 1818, and to destroy the mutuality of the act of 1839 and the benefits of Article XXIX of the treaty of 1871.

Suppose those declarations were true at the time they were made, they were not affected in the slightest degree by the treaty Mr. Bayard negotiated.

Mr. EDMUNDS. Will the Senator kindly refer me to the page from which he is reading?

Mr. MORGAN. On pages 13 and 14.

Mr. EDMUNDS. Of what report?

Mr. MORGAN. Of your report.

Mr. EDMUNDS. The report of 1887 or the report on the treaty?

Mr. MORGAN. The report on the treaty.

Mr. HOAR. Will the Senator from Alabama kindly yield to me, that I may offer a resolution?

Mr. MORGAN. I will yield now to any morning business.

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 report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10234) making appro-

provisions for the support of the Army for the fiscal year ending June 30, 1889, and for other purposes; that the House further insisted upon its disagreement to Senate amendments 26, 27, 33, and 35 to the said bill, and asked a further conference with the Senate on the disagreeing votes of the two Houses.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1661) for the erection of an appraisers' warehouse in the city of New York, and for other purposes.

ENROLLED BILLS SIGNED.

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

A bill (H. B. 204) granting a pension to Frederick C. Shaw;
 A bill (H. R. 217) granting a pension to C. T. Mapet;
 A bill (H. R. 333) granting a pension to Catharine Bussey;
 A bill (H. R. 549) granting a pension to Joseph S. Wilson;
 A bill (H. R. 775) granting an increase of pension to John D. Jones;
 A bill (H. R. 783) granting a pension to Mrs. Nancy E. Spencer;
 A bill (H. R. 793) for the relief of William Collins;
 A bill (H. R. 839) granting a pension to Ishmael Jones;
 A bill (H. R. 2176) granting a pension to Alexander Collinge;
 A bill (H. R. 2507) granting a pension to Russel L. Doane, of Peck, Saline County, Michigan;
 A bill (H. R. 2710) for the relief of Mathew H. Fulton;
 A bill (H. R. 2908) increasing the pension of W. E. Stokes;
 A bill (H. R. 3710) granting a pension to Samuel Piercy;
 A bill (H. R. 4504) granting a pension to Nancy Baldwin;
 A bill (H. R. 4575) granting a pension to Michael Horgan;
 A bill (H. R. 4855) granting a pension to Jacob Newhard;
 A bill (H. R. 5123) to increase the pension of Charles Ritchey;
 A bill (H. R. 5232) granting a pension to Andrew Mucklin;
 A bill (H. R. 5446) granting a pension to William H. Dowdall;
 A bill (H. R. 5503) granting a pension to Charles Walster;
 A bill (H. R. 5525) granting a pension to Mrs. Jane Potts;
 A bill (H. R. 5529) granting a pension to Flora Heath;
 A bill (H. R. 6001) granting a pension to Sarah J. Fraily;
 A bill (H. R. 6344) granting a pension to William J. Toncray;
 A bill (H. R. 6501) to grant a pension to Joseph F. Garrett;
 A bill (H. R. 6848) for the relief of Elizabeth A. South;
 A bill (H. R. 7508) granting a pension to Julia E. Ambrose;
 A bill (H. R. 7717) granting a pension to Mrs. Catharine Reed;
 A bill (H. R. 8076) granting a pension to the minor children of Orison S. Baldwin;
 A bill (H. R. 8494) granting a pension to Gilbert Reed;
 A bill (H. R. 8534) granting a pension to Jacob Copes;
 A bill (H. R. 8545) for the relief of Samuel Purcell;
 A bill (H. R. 8571) granting a pension to Margaret J. McQuary;
 A bill (H. R. 8617) granting a pension to Henry Crottsley;
 A bill (H. R. 8697) to increase the pension of Martin McLaughlin, a survivor of the Mexican war and late a private in Company D, Third United States Infantry;
 A bill (H. R. 8885) granting a pension to Eliza A. Woods;
 A bill (H. R. 8889) granting a pension to Charles Molseed;
 A bill (H. R. 8912) granting an increase of pension to Almeron J. Patchin;
 A bill (H. R. 8931) for the relief of Samuel E. Wilson;
 A bill (H. R. 9130) granting a pension to Susan Singleton;
 A bill (H. R. 9228) for the relief of Nathan Cook;
 A bill (H. R. 9253) granting an increase of pension to Richard Hogan;
 A bill (H. R. 9372) granting a pension to John Dean;
 A bill (H. R. 9337) for the relief of Emanuel H. Custer;
 A bill (H. R. 9399) granting a pension to Albert O. Robb;
 A bill (H. R. 9463) granting a pension to Lucy A. Jordan;
 A bill (H. R. 9653) granting a pension to Henry Alward, dependent father of Henry M. Alward;
 A bill (H. R. 9672) granting a pension to Eliza A. Williamson;
 A bill (H. R. 9684) granting a pension to William J. Brown;
 A bill (H. R. 9697) granting a pension to Mrs. Ellen B. Brown;
 A bill (H. R. 9704) granting a pension to Martha F. Lee;
 A bill (H. R. 9702) to increase the pension of Charles S. Baker;
 A bill (H. R. 9795) to restore Nathaniel Francis to the pension-roll;
 A bill (H. R. 9824) for the relief of Albert Watson;
 A bill (H. R. 10275) granting a pension to Joseph Hunter, M. D.;
 A bill (H. R. 10356) granting a pension to John T. Vincent;
 A bill (H. R. 10418) granting a pension to Hannah L. Irwin;
 A bill (H. R. 10525) increasing the pension of Edward Jardine;
 A bill (H. R. 10607) granting a pension to Rachel Morgan;
 A bill (H. R. 10789) granting a pension to Philip Newman;
 A bill (H. R. 10906) granting a pension to Fidel Gates;
 A bill (H. R. 8012) for the relief of M. M. Gibson;
 A bill (H. R. 3055) for the relief of A. F. Saint Sure Lindelfelt;
 A bill (H. R. 3480) for the relief of John D. Munnerlyn; and

A bill (H. R. 11118) to authorize the construction and operation of a street-railway and wagon bridge across the Rio Grande, between the city of El Paso, Tex., and Paso del Norte, Mexico.

TOLLS ON GOODS EXPORTED TO CANADA.

Mr. HOAR. The Senator from Alabama very courteously allows me to offer a resolution which I had designed to offer at the appropriate time in the morning business, and as I am going to leave the Senate Chamber in a short time to be absent until Monday, I shall ask for the present consideration of the resolution.

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

The Secretary read as follows:

Resolved, That the President of the United States be requested, if not in his judgment incompatible with the public interest, to communicate to the Senate copies of all communications, if any, addressed by his direction to the Government of Great Britain, remonstrating with that government against the wrongs and unfair treatment to our citizens by the action of the Canadian Government in refunding to vessels and cargoes which pass through the Welland and other Canadian canals nearly the entire tolls if they are destined to Canadian ports, while those bound for American ports are not allowed any such advantage, and the breach of the engagement contained in the treaty of 1871, whereby Great Britain promised to the United States equality in the matter of such canal transportation. Also copies of any demand made by his direction upon Great Britain for the redress of such wrongs and the replies of Great Britain to such communication and demand.

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

Mr. MORGAN. I want time to examine it. Let it go over and be printed.

Mr. EDMUNDS. The resolution will be printed.

The PRESIDENT *pro tempore*. It will lie over and be printed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of July 5, 1888, a report of the Commissioner of the General Land Office in regard to improper and unlawful selections under the swamp and overflowed land-grant acts of 1850 and subsequent years; which, with the accompanying papers, was, on motion of Mr. EDMUNDS, referred to the Committee on Public Lands, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. FAULKNER, from the Committee on the District of Columbia, to whom was referred the bill (S. 3017) for the relief of Daniel Donovan, reported it with amendments, and submitted a report thereon.

He also, from the Committee on Claims, to whom was referred the bill (H. R. 4239) for the relief of P. H. Winston, reported it without amendment, and submitted a report thereon.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, to whom was referred the amendment submitted by Mr. STOCKBRIDGE, and intended to be proposed to the general deficiency appropriation bill, reported it favorably, and moved its reference, accompanied by a report, to the Committee on Appropriations, which was agreed to.

ERROR IN AGRICULTURAL APPROPRIATION ACT.

Mr. PLUMB. I am directed by the Committee on Appropriations to report back House joint resolution 201, and as it is simply to correct an error in an appropriation bill which has passed, and is necessary in order that the money appropriated for a specific object may be made available, I ask unanimous consent that the joint resolution may be considered now.

The PRESIDENT *pro tempore*. Does the Senator from Alabama yield for that purpose?

Mr. MORGAN. Yes, sir.

Mr. PLUMB. I report back the joint resolution (H. Res. 201) to correct an error in the act making an appropriation for the Department of Agriculture for the fiscal year ending June 30, 1889, and for other purposes.

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

Mr. EDMUNDS. Let it be read for information.

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

The Secretary read the joint resolution, as follows:

Resolved, etc., That an error in the act making an appropriation for the Department of Agriculture for the fiscal year ending June 30, 1889, and for other purposes, designating the "Ladies' Silk Culture Society of California" as the "California Ladies' Silk Culture Association of California" be corrected so that the same shall read, "Ladies' Silk Culture Society California."

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. PLUMB. There is an amendment to be moved. Before the word "California," in the last line of the joint resolution, I move to insert the word "of."

I wish to say that the language found in the bill as it passed was precisely as it came from the House of Representatives. The Senate had no information on the subject, and in addition this association was described by the precise name in the last preceding agricultural appropriation bill. But it has been discovered that in order that the

money may be drawn it will have to be otherwise named, and hence the necessity for the passage of the joint resolution.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Kansas to insert the word "of" before "California" in the last line of the joint resolution.

The amendment was agreed to.

Mr. PLUMB. In accordance with the suggestion of the Senator from Vermont [Mr. EDMUNDS], and inasmuch as the joint resolution will have to go back to the House of Representatives any way on account of the amendment which has already been made, I will move to further amend the joint resolution by striking out the word "corrected," in line 8, and inserting the word "amended."

Mr. EDMUNDS. There is one other place of the same kind where that improper language is used.

Mr. PLUMB. In view of the language in the first part of the joint resolution, I think I will let it stand just as it is.

Mr. EDMUNDS. Yes; let it go.

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

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

The joint resolution was read the third time, and passed.

BILLS INTRODUCED.

Mr. MORGAN introduced a bill (S. 3484) to empower the President more effectually to carry out the purposes of an act entitled "An act to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels in certain cases, and for other purposes," approved March 3, 1887, and to authorize the President to protect American interests against unjust discrimination in the use of canals in the British dominions of North America; which was read the first time by its title.

Mr. BECK. Let the bill be read at length; it is not long.

The PRESIDENT *pro tempore*. The bill will be read at length for information, if there be no objection.

The bill was read at length, as follows:

Be it enacted, etc., That whenever the President may deem it his duty to exercise any of the powers given to him by an act entitled "An act to authorize the President of the United States to protect and defend the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases, and for other purposes," approved March 3, 1887, it should be lawful for the President in his discretion, by proclamation to that effect, to suspend in whole or in part the transportation in bond and without the payment of duty of goods, wares, and merchandise imported or exported from any foreign country except Canada to or from the British dominions in North America across the territory of the United States.

SEC. 2. Whenever the President shall be satisfied that there is any discrimination whatever in the use of the Welland Canal, the St. Lawrence River canals, the Chamby Canal, or either of them, whether by tolls, drawbacks, refund of tolls, or otherwise, which is or may be detrimental to the interests of the United States or any of its citizens, it shall be lawful for the President in his discretion to issue a proclamation to that effect; whereupon there shall be collected a toll of 20 cents a ton upon every foreign vessel and her cargo passing through either the Sault Ste. Marie Canal or the St. Clair Flats Canal, and the Secretary of the Treasury may authorize and direct any of the customs officers to collect the tolls levied under this act. The President, when satisfied that such discrimination has ceased, may issue his proclamation to that effect in his discretion, whereupon the tolls authorized by this act shall no longer be collected.

SEC. 3. The Secretary of the Treasury is authorized to make any regulations needful to carry this act into effect.

The PRESIDENT *pro tempore*. The bill will be considered as read the second time, if there be no objection, and referred to the Committee on Foreign Relations.

Mr. SHERMAN. I would rather the bill should go over until the President's message is acted upon. Let it go until the President's message is disposed of.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Ohio to object to the second reading of the bill to-day?

Mr. SHERMAN. I do; but at a later period, if the President's message is referred to-day, I should be glad to have the bill read the second time and referred.

The PRESIDENT *pro tempore*. The bill having been read the first time, will lie on the table.

Mr. TELLER introduced a bill (S. 3485) restoring the homestead right of Charles Weitle; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HAMPTON introduced a bill (S. 3486) for the relief of the State of South Carolina; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CALL (by request) introduced a bill (S. 3487) to subdivide the internal-revenue collection district of Florida; which was read twice by its title, and referred to the Committee on Finance.

AMENDMENT TO DEFICIENCY BILL.

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

ADJOURNMENT TO MONDAY.

Mr. CULLOM. By consent of the Senator from Alabama, I move that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to.

FISHING RIGHTS OF THE UNITED STATES.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Ohio [Mr. SHERMAN] to refer the message of the President of the United States to the Committee on Foreign Relations.

Mr. MORGAN. Mr. President, it is proper now that I should make some examination of our statute laws as they relate to the subject of the twenty-ninth article of the treaty of 1871, not for the purpose of trying to demonstrate that the twenty-ninth article of the treaty is in existence or trying to demonstrate that it is not in existence. A majority of the Committee on Foreign Relations, in the report which they made upon the treaty which has just been rejected by the Senate, affirmed that the twenty-ninth article was in existence and continued to be in existence and that it applied to the transshipment of fish in bond from American fishing vessels through Canada to the United States. That view of the case has been denied by the British Government, and the colonial governments have refused and given notice of their refusal to permit fish to be transhipped by our fishermen in bond under the provisions of that treaty, contending that the fisheries clauses of the treaty of 1871 had no reference at all to the twenty-ninth article and were not covered by it in any respect, and that Article I of the treaty of 1818 prohibited our fishermen from the right to enter their ports for the purpose of transmitting their fish in bond through Canada.

It is well enough to look back a little at the history of this matter. Before we had enacted any statute on the subject of the Canadians having the right to go through our country with their produce in bond, the regulations of the Treasury Department based upon some law—and I do not know what it is—permitted goods to pass to and fro between Canada and the United States in bond without the payment of duties—

Mr. SHERMAN. That was the law of 1866.

Mr. MORGAN. It was before that.

Mr. SHERMAN. Before 1866?

Mr. MORGAN. Yes, sir; before 1866.

Mr. SHERMAN. There must have been a law for it.

Mr. MORGAN. I do not think there was any law for it. I think there was no positive statute for it, no statute bearing directly upon the subject at all. It was a regulation of the Treasury Department, which found its way, however, into practice, as I am informed. I am not complaining of it at all, because I think that it was—

Mr. GEORGE. Will the Senator from Alabama allow me to ask him or the Senator from Ohio [Mr. SHERMAN] whether the act of 1866 was the first statute on that subject?

Mr. MORGAN. That is the first statute, but the practice I allude to obtained before that.

Now I want to read section 5 of that act of 1866, and let us get at something of the meaning of it.

SEC. 5. *And be it further enacted*, That from and after the passage of this act all goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, or any other port of the United States which may be specially designated by the Secretary of the Treasury, and destined for places in the adjacent British provinces, or arriving at the port of Point Isabel, Tex., or any other port of the United States which may be specially designated by the Secretary of the Treasury, and destined for places in the Republic of Mexico, may be entered at the custom-house and conveyed in transit through the territory of the United States without the payment of duties, under such rules, regulations, and conditions for the protection of the revenue as the Secretary of the Treasury may prescribe.

Mr. TELLER. What act is that?

Mr. MORGAN. The act of July 28, 1866, Thirty-ninth Congress, first session.

Now, in respect of goods arriving at New York, Boston, and Portland, or any other port of the United States which may be specially designated by the Secretary of the Treasury, to fall within the provisions of this law they must be goods destined for places in the adjacent British provinces, not goods coming from the British provinces and passing out of our ports, but goods coming to our seaports and passing duty free under bond into places in the British provinces. I do not know by what legislative authority it is asserted here, or ever has been asserted, that goods coming from Canada may pass free through the United States to foreign countries. That act does not provide for it, and there is no act providing for it that I have been able to find.

This act was re-enacted in the Revised Statutes, changing one word in it from "Point Isabel" to "Brownsville," and making only that change, and no other change was made or suggested at all; so that until we came to the treaty of 1871 there was no authority for passing Canadian productions through the United States under bond conferred by any statute of the United States that I have been able to lay my hands upon. It was a one-sided arrangement, we providing for the legislation on our side in anticipation that the Dominion Parliament, or whoever had authority there, would pass laws of a parallel kind granting the same concessions to us.

It was a mere case of parallel legislation; but it appears that the other side of the case has never been provided for, and therefore we have never passed any act at all to permit Canadian productions to pass into the United States duty free and out from our ports to foreign countries. Therefore it was the duty of the Secretary of the Treasury to issue that circular that the Senator from Massachusetts read here to-day, to impose duties on goods passing through the United States

destined for exportation to foreign countries. The Senator from Massachusetts argued and stated that this had been done by the present Administration and by previous administrations, if I remember correctly his statement on this subject; and he referred to it as being something that was recognized as being legitimate and right under the provisions of the law as it stood upon our statute-books, but that it was in violation of the treaty of 1871. If I understood the circulars he read, I think he mistakes their application.

When criticizing the President of the United States we might just as well, Mr. President, become students of the statutes of this country, for it appears, after all, that he takes a more critical view of them than do Senators on this floor. There is no law of Congress unless it may be the law keeping—if there is a law keeping—in force the treaty of 1871 that authorizes us to admit Canadian goods free of duty and pass them out from our ports to foreign countries.

I wish to refer now, after passing that point, to the language of the act of Congress ratifying and confirming and putting into effect the treaty of Washington of 1872—

Mr. EDMUNDS. Eighteen hundred and seventy-one; yes.

Mr. MORGAN. Yes; I was referring to the date of the ratification rather than to the date of the signature of the instrument.

Mr. EDMUNDS. That was the act of 1873—the act to carry out the treaty.

Mr. MORGAN. Section 2866 of the Revised Statutes provides for the carrying into execution of the treaty of 1871. It is as follows:

From the date of the President's proclamation declaring that he has evidence that the Imperial Parliament of Great Britain, the Parliament of Canada, and the legislature of Prince Edward Island have passed laws on their part to give effect to the provisions of the treaty of Washington of May 8, 1871, as contained in Articles XVIII to XXV, inclusive, and Article XXX of said treaty, and so long as said articles remain in force, according to the terms and conditions of Article XXXIII of said treaty, all goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been, or may from time to time be, specially designated by the President of the United States and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Secretary of the Treasury may, from time to time, prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such possessions, through the territory of the United States, for export from the said ports of the United States.

There is the first time that there occurred any legislation in respect to goods coming from Canada into the United States and passing through in bond for export to foreign countries, and that was to execute the treaty of 1871.

Now, let us see the language of it in one particular. The language is "and so long as said articles remain in force."

Now, what articles? The enumerated articles—"Articles XVIII to XXV, inclusive, and Article XXX of said treaty." The express language of our act is that so long as these articles, which are mentioned in the statute itself, remain in force these privileges shall be extended to Canadian commerce coming into the United States for export to foreign countries, and also shall be granted to Canadian commerce coming to ports of the United States destined for places within Her Majesty's possessions in North America.

Now, are those articles in force? Beyond all question they are not. The act which executed the treaty of 1871 put a limitation by act of Congress—declaring the will of Congress upon the right—it made no difference what it might be under any construction of the treaty of 1871—put a limitation upon the right either of bringing goods in bond and carrying them through the territory of the United States for exportation, or goods landed at our ports destined for Canadian ports. Here are the various articles mentioned—from Article XVIII to XXV, inclusive, and Article XXX in the statutes.

Mr. GEORGE. Is it not merely a Congressional construction?

Mr. MORGAN. It is not merely a Congressional construction, but a construction and declaration of the ultimate power of the people of the United States, for no doctrine is better settled in this country than that Congress has the right to repeal a treaty whenever it pleases to do so. Therefore it can give a treaty operation just as long as it chooses to do so. If in doing so it chooses to interfere with the language of the treaty or its purpose the treaty falls. The supreme legislative power in the United States resides in the Congress of the United States and is not found in the treaty-making power lodged in the President and in the Senate. And a most happy circumstance it is, sir; for we should be here continually repealing laws by making treaties with foreign countries, revenue laws and all manner of laws that are not agreeable to the President of the United States and the Senate, if we had the supreme power to impose on this country obedience to our decrees and thereby to override the will of Congress.

So the President of the United States finds himself confronted with an act of Congress here. The act of March, 1887, made no reference to section 2866, Revised Statutes, not the slightest, nor has that act or that of 1866 in any way been modified by the retaliation law of 1887. It makes no difference what interpretation we give to the act of Congress in respect of the repeal of Article XXIX of the treaty of 1871, there stands that act of Congress to prevent the President of the United States from accepting the conclusion that that treaty is opera-

tive any longer than the very hour that is mentioned in the body of that statute.

They now say, why did he not bring this subject up? Well, Mr. President, why did not we bring it up? The President of the United States has been conducting his negotiations with the Government of Great Britain with the view of getting our fishery rights upon a reasonable and firm foundation. So far he has not attempted to touch our general commercial rights, neither those matters relating to the mutuality of the right of passage on the canals and through the Lakes, nor this right of transmitting goods under bond through the United States. These subjects have been omitted from the diplomatic negotiations which have occurred between these two countries, but they have not been forgotten. We had quite enough to do. It was a duty immediately pressing upon us that we should reform and reconstruct that treaty of 1818, which has been a very Pandora's box in this country, and it was the duty of a good negotiator to keep out of that treaty every question between us and the Empire of Great Britain which might have a tendency in the least degree to embarrass it. The Senator from Maine who sits before me objected to this negotiation before the Senate, because it did not go far enough. Among other objections to the treaty he complained that it did not go far enough; that it should have included all these troubles that have sprung up among our commercial men in respect of discrimination in tolls upon our vessels passing through the canals to the Lakes.

Mr. HALE. Does the Senator refer to some remarks made by me?

Mr. MORGAN. Yes.

Mr. HALE. Let me ask the Senator now whether, in view of this message from the President calling attention to the subject-matters which he has seen fit to embrace in his communication, the Senator does not believe that it would have been better in laying the keel of this negotiation to have included in it the subject-matters which for the first time we learn are now grievances in the eyes of the President of the United States? Would it not have been better to have had an all-embracing treaty, and was there not force in the objection made by myself at that time?

Mr. MORGAN. An all-embracing treaty would have included not only this question of the fisheries, but it would have included the Monroe doctrine, and the Clayton-Bulwer treaty, and it would have included quite a number of other matters.

Mr. HALE. Well, why not?

Mr. MORGAN. The Senator may say "why not?"—

Mr. HALE. If these are involved in our relations with the people of Canada, if they arise, as I believe they do, in treating upon our commercial relations with the people of Canada, why not embrace them in the negotiation of a treaty that shall settle all these things? Why not make a treaty which, whether confirmed or not, would relieve us of the necessity of being confronted by a message from the President of the United States dealing with subject-matters that were not contemplated in the treaty that has been rejected and had no more to do with it than the Declaration of Independence?

Mr. MORGAN. I can give the Senator several answers to that, either one of which is good, and the first is that they are not kindred subjects, they are not correlated at all; for example, our rights in the Behring Sea and our rights in the Canadian fisheries.

Mr. HALE. If that is so, why has the President of the United States waited until the rejection of the treaty by the Senate to launch these subjects on the Senate? If they have no relation to the treaty why bring them up at this time?

Mr. MORGAN. The Senator evidently did not understand what I said. I said the subject of the Behring Sea fisheries has no bearing upon the subject of the fisheries on the northeastern coast any more than the Monroe doctrine has; not a bit. They are various and very different things, and each of them requires the attention of more than one man. There are always two parties to a treaty. Great Britain did not send her plenipotentiaries here charged with the duty of negotiating with us as to anything except the treaty of 1818. She limited the discussion to that. We could not have brought it in if we had chosen to do so. Certainly no man could say to Great Britain, "Because you bring in a modification of the treaty of 1818 you must conclude to bring in also every subject of discussion between the two Governments, no matter how disconnected with the subjects immediately in hand, before we can agree upon the subjects you propose to discuss."

Mr. HALE. Do I interfere with the Senator by asking him a question?

Mr. MORGAN. No, I do not know that the Senator does.

Mr. HALE. Will the Senator claim, if one power proposes to negotiate upon a certain basis with another and a coequal power with regard to a certain subject-matter, that it is not in the line of diplomacy, strictly, for the other power to suggest and insist that the negotiation shall take a wider range? The Senator must know that in the course of negotiations between the great powers and the small powers of the earth that is continually being done? One great fault I found with the negotiation of the rejected treaty (and that was one of the points I made at the time alluded to by the Senator from Alabama) was that when a proposal was made to negotiate, instead of keeping it narrowed down to the subject-matters that were considered, they should have made it em-

brace other subject-matters, and there is nothing that bears testimony to the force of that proposition so much as the message the President has just sent to us upon these various subject-matters. They ought all to have been combined and negotiated upon, and then there would have been no occasion for retaliation.

Mr. MORGAN. If we had to take Republican opinion from all the variety of conflicting sources from which it is derived here, or from which it is promulgated, we should have a variable batch of it. Here is one committee and there are various Senators denouncing the President of the United States for entering into any negotiation on the subject of the fisheries at all, or any other subject, so far as that is concerned. Other Senators come in here and ask why the President did not take the universal world into the scope of his negotiation.

Mr. HALE. The President selected a subject-matter that did not need the interposition of the treaty-making power, and has now called our attention to these other matters that his Administration neglected entirely.

Mr. MORGAN. I repeat, Mr. President, what I said awhile ago, that when we have commissioners accredited to this Government to treat on certain subjects, we are not expected to spread the treaty over a much longer list of topics.

We have had a number of propositions in regard to the fisheries treaty. Propositions were made by the commissioners at the time of the treaty of 1818 and the treaty of 1854 and the treaty of 1871, to which each replied, "My Government has not authorized me to treat on that topic at all, therefore I can not consider it." So in making the treaty of Ghent this matter of the fisheries was brought forward, but its discussion was refused. So when a commissioner comes here to make a treaty we must take him with his instructions and say that we will treat with him on that subject or we will not.

In regard to this fisheries treaty, the foreign commissioners came here specially charged to treat of that subject, and also to treat of reciprocity. Mr. Bayard and his associates said, "We are not authorized by the United States to treat of reciprocity at all, and we will throw that subject out"—an example found in the very case we are considering. So I think it is hardly worth while to discuss a question of that kind.

We are discussing the question of what are the relations of the United States and Canada as expressed by treaty, and we are trying to account for why it was that the President of the United States did not take up the treaty of 1871 and have an adjustment of it, and have an agreement made as to whether Article XXIX was in force or was not, and also whether Great Britain had broken the treaty regarding the transportation of goods and passengers across the Canadian canals and on the northern lakes.

Mr. HALE. I will not interrupt the Senator if he does not wish me to do so.

Mr. MORGAN. Well, I do not think there is any value in this debate at all.

Mr. HALE. Then I will wait until the Senator takes his seat.

Mr. MORGAN. When the President of the United States negotiated the treaty of 1888 he did not touch on this question—the twenty-ninth article of the treaty of 1871. You ask, "Why did he not do it?" I reply that it was not the subject of the instructions of the British commissioners. Our Government had never taken a stand upon that question in any of its departments; but you have now compelled the President of the United States to resort to retaliation by denying him the right and privilege of exerting his powers, his diplomatic powers, in respect of the fisheries treaty of 1818 or any fisheries right that we have got.

The Senate of the United States has notified him in the most solemn manner that it makes no difference what treaty he negotiates with Great Britain in respect of these fishery rights, it is not to have any consideration here. You say to him, "You must proceed with retaliation; you must take that discretionary law, that permissive law of March 3, 1887, and you must construe that now to be a mandatory law." The President of the United States says to you, "I find another statute in my way here, and I want you to remove it or I want you to explain it by Congressional action. I find a statute here which puts an end to the twenty-ninth article of the treaty of 1871 by its express terms." And it makes no difference how you construe the treaty or how anybody else may construe it, that article of the treaty has been destroyed in its operation and effect in this country, so far as the Executive power is concerned, by the act of March 1, 1873.

He comes to the Congress of the United States and says "I am willing and anxious to do all I can to redress the wrongs of the American fishermen and the American people caused by Canadian interference, but I find this statute barring my way. I find that you omitted from the act of 1887 the power to retaliate by stopping Canadian goods from passing duty free through the United States. I think the safest retaliation is to exclude from the right of transit through the United States the products of Canada from ports abroad and from our ports of the United States into the ports of Canada amounting to very nearly \$300,000,000 in the last six years without paying duty. I desire to stop this if I am under a compulsion to retaliate, because in doing so the heaviest part of this blow will fall upon the Canadian people, not upon our own people." And he asks the Congress of the United States whether he has

the right to do that under the law as it stands. If he has not that right he asks for it. It was a Congressional act that put the difficulty in his way, if it is there, and he says, "Remove that if you want retaliation, and I will place an embargo upon the goods passing both ways, back and forth, unless they pay duty."

Mr. President, that is something that we ought to have considered. When we impose the duty on the President of the United States of making retaliation upon Canadian commerce at his discretion and after he has investigated the subject and at his peril, we ought to have been careful to see whether we would not violate the twenty-ninth article of the treaty of 1871. It seems that we adroitly shunned that question. No, sir. That was not the thing that was wanted to be done. These railroads—the Grand Trunk and the other lines running out from the northeastern parts through Maine, New Hampshire, and Vermont which have borne in six years about \$300,000,000 of commerce back and forth to and from Canada, were valuable property. They were money-paying institutions. They were a great convenience to that country. They enriched the merchants at the terminal points and furnished facilities to the people along the way, and the earnest purpose that has attended every step in this whole legislative proceeding, and has marked every step in respect of this legislation with careful guards—the earnest purpose has been to keep the hands of Congress and of the President of the United States off these railroads. It made no difference who else it might fall upon, they were not to share the burden of the retaliatory law of 1887. They have been the pets of the Republican party of this Senate, nurtured by it, watched over, hugged to its bosom, and sheltered and protected against the amendments that were brought in here by the Senator from Maryland [Mr. GORMAN] and urged upon this Senate when the act of 1873 was passed.

Mr. FRYE. The Senator voted against it, did he not?

Mr. MORGAN. I did; I voted against it. I did not then believe that that act as the House passed it could be made effective without stopping intercourse with Canada. I believe it now firmly in the new form presented in the message we are discussing. The evidence has satisfied me that I was wrong about it. My vote ought to have been given to include those railroads in the power of the President to prohibit intercourse. I did not then believe that we meant commercial war by the act of 1887. Now I do believe it. I am now quite satisfied that if we will give the President of the United States power to prevent the passage of goods in bond free of duty over these railroads we will touch the whole subject right at the core, and then two sets of people will be convinced that a fair treaty is the best remedy. The railroads and their managers in the Northeastern States, and the Canadians, will be convinced, and then we will have peace on the basis of a fair treaty. Then we will have an agreement, and whether Mr. Cleveland is elected or whether Mr. Harrison is elected it will make no difference. The winds of December will not have blown across this country until Canada and the people of the United States will be in accord through a treaty that will have been brought here, and we will ratify it, notwithstanding our solemn declaration in the report of the Committee on Foreign Relations that the fisheries treaty of 1818 and the fisheries question are not fit subjects of negotiation.

You compel the President of the United States to retaliate, and yet you take the greatest possible care that in the exercise of the power of retaliation certain of your great and overmastering railroad interests shall be taken care of, and shall not be interfered with. Your candidate for the Vice-Presidency is now, or if he is not now he was up to a recent date, a director in one of those roads.

Mr. CULLOM. How about Mr. Brice and Mr. Barnum?

Mr. MORGAN. I expect they are in it; I have no doubt of it. I do not know whether they are against this treaty or for it; and I do not care.

Mr. CULLOM. They are directors of the road.

Mr. MORGAN. So is Mr. Morton a director.

Mr. FRYE. No, Mr. Morton resigned long ago.

Mr. MORGAN. How long ago?

Mr. FRYE. Long before the date of his nomination.

Mr. MORGAN. Well, I would not go by the date of his resignation. The time of his resignation is probably very recent; the date of his resignation is probably old.

Mr. EDMUNDS. I desire to say on behalf of, but without any authority from, Mr. Morton, the Republican candidate for the Vice-Presidency, who is dragged into this debate (which I supposed was non-partisan), that Mr. Morton is not the man who antedates papers, and that his honor in that regard is as clear as that of my honorable friend from Alabama. Mr. Morton plays no tricks on the people of the United States.

Mr. MORGAN. Well, now, we have a sort of *ex cathedra* utterance from the Senator from Vermont not based on any fact he knows about it.

Mr. EDMUNDS. Based on some facts that I do know about it.

Mr. MORGAN. I expect that when the Senator comes to the bottom facts in this matter he will be perhaps at liberty to change his judgment. We do not hear of Mr. Morton's having sold his stock. I suppose he must have done so. He must have been a stockholder in order to be a director. His resignation out of the directory does not amount to much if he is still a stockholder.

But what I wish to say about it is that gentlemen of both the great political parties are interested in these railroads in carrying, not merely fish, but all manner of production under bond and free of duty through the territory of the United States. If we stop it and let the Canadians take the St. Lawrence River as their mode of exit to the sea and their channel of importation, then you will find that that will make some impression on the Dominion and upon Great Britain also; then you will find that the Canadian Pacific Railroad will not be absorbing all the business of the different railroads of this country and threatening at this date to bankrupt the Union Pacific and the Central Pacific Railroads, over which we are holding a debt to-day of \$113,000,000—

Mr. EDMUNDS. May I ask the Senator a question?

Mr. MORGAN. Yes, sir.

Mr. EDMUNDS. I wish to ask the Senator whether his views have undergone any change since the time that we passed this law that is now in force?

Mr. MORGAN. In respect to what?

Mr. EDMUNDS. In respect to the extent to which it was sufficient to go in the way of retaliation.

Mr. MORGAN. Yes, sir; my views have undergone a change.

Mr. EDMUNDS. The Senator no longer, then, stands on this paragraph which he signed gladly in the report of the Senate conference committee on the 28th of February, 1887:

The Senate managers have felt it to be a duty to decline to go to this extent, and have thought it to be clear that the provisions for the protection of American interests set forth in the Senate bill, and in that part of the House amendment applicable to any British violation of the treaty of 1877, are entirely adequate to the peaceful end in view, and that there is no present justification for reposing in the Executive this further enormous power proposed by the House of Representatives in its amendment and insisted upon by the House managers.

Mr. MORGAN. I have no occasion to change any view or any expression contained in the statement, but I do have occasion to object that the Senator from Vermont [Mr. EDMUNDS] should undertake to identify what we were opposing or objecting to in that bill with the right of transmission or transshipment of goods under bond and free of duty through the United States or through Canada. They have not the remotest connection with each other.

Mr. EDMUNDS. Then may I ask the Senator another question?

Mr. MORGAN. Yes.

Mr. EDMUNDS. I will ask the Senator whether in his opinion the twenty-ninth article of the treaty of 1871 is in force?

Mr. MORGAN. I think it is not.

Mr. EDMUNDS. If the Senator will pardon me—I do not wish to go on without his permission—

Mr. MORGAN. Certainly, go on.

Mr. EDMUNDS. In his minority report on the fisheries treaty, which I had here a moment ago, the Senator, I think, had a different view—I think so; I will not speak with positiveness until I turn to it. Yes, on page 41 of "Miscellaneous Document No. 109, Fiftieth Congress, first session," being the minority report on the treaty, the Senator from Alabama [Mr. MORGAN], after first saying that Articles XVIII to XXV of the treaty of 1871 were abrogated, and no other articles in the treaty related to the fisheries, says:

Article XXIX was not terminated, but it never had the least reference to the fisheries treaty of 1818, etc.

But the Senator now says it was terminated, just as Mr. Bayard in his letter to a member of the Interstate Commerce Committee—a public letter, of course, for public information—also stated.

Now, whether Article XXIX is reciprocal in respect of the transmission of fish over the United States and across Canada is of course another question. The British contention is that it is not, because they say the treaty of 1818 (about seventy years before) overrode the treaty of 1871, seventy years afterward.

Mr. MORGAN. What was the question to which I was addressing myself at that time? The Senator from Vermont had stated in his majority report that Article XXIX of the treaty of Washington was not terminated.

Mr. EDMUNDS. Yes.

Mr. MORGAN. Why, the act of Congress which terminated all the other articles from XVIII to XXV inclusive, and Article XXX—

Mr. EDMUNDS. Yes, and the Senator says the same thing in his minority report.

Mr. MORGAN. I now say the same thing. Terminated by what? Terminated by the action of the United States Government in giving notice under the treaty. Now, I think the Senator from Vermont is lawyer enough, and I think he will credit me with being lawyer enough, to use phrases that have reference to the very subject at hand. I was referring to the question whether or not it was terminated by the act of Congress which gave notice to Great Britain of the termination of those articles of the treaty under the provisions of Article XXXIII. Therefore I used the word "terminated." If the Senator from Vermont had not hid an idea, as I think surely he must have done because of his very keen introspection into the statute, in respect of the limitation put upon the articles of the treaty by the act of Congress of 1873, perhaps he would have branched out in his argument and said something to us as to whether or not Congress had put a limitation upon its operation. And, whether Congress had terminated it or not, Congress

had declared that that article should not have operated one day longer than the other articles operated.

Mr. EDMUNDS. Why, Mr. President—

Mr. MORGAN. I should like to know now whether the Senator denies that?

Mr. EDMUNDS. I do distinctly deny that, because the act of Congress does not profess to affect the force or duration of any article in the treaty.

Mr. MORGAN. What act?

Mr. EDMUNDS. The act of Congress of 1873, to which my honorable friend refers. The act of Congress is providing for the conduct of the public servants of the United States connected with the revenue, and it says that so long as that treaty, or some part of it, I do not care what part or how much, is in force, every officer of the United States in regard to the revenue shall do so and so, and that is all it says.

It would be a very extraordinary performance on the part of the Senate of the United States, that being an intelligent and honorable body, after ratifying a treaty, and proceeding to pass a statute to carry out that treaty, to say that part of it ought not to be operative. The treaty provides that that article can be got rid of like the others, under suitable notice.

Mr. MORGAN. Then the President of the United States, under his oath to see that the laws are faithfully executed, can say that the treaty is not in force, because the act of Congress puts a limitation on it.

Mr. EDMUNDS. The act of Congress does nothing of the kind. Will the Senator please read it?

Mr. MORGAN. I have read it carefully to the Senate. No, sir; the act of Congress of 1873 and the treaty of 1871, in their apparent conflict, stand as a bar across the way of the President of the United States when he comes to demand duties upon those importations brought in under bond. It is an apparent conflict that Congress ought to remove. It ought to give him a clear field of operations before he is required to execute any law or piece of legislation which excludes Canadian goods from coming here. He has a right under the act of March 3, 1887, in his discretion to determine the existence of the cause on which he would base a proclamation for the exclusion of Canadian goods, and of the necessity for such action, and to select the articles upon which it is to operate. He says here, "I find the treaty at an end, terminated by the limitations of an act of Congress, according to my construction of it, and I propose to make a proclamation that the Canadians shall not bring goods in here free of duty under bond. If I may exclude goods that pay duties, why may I not exclude those that pass through duty free? Now, let Congress say whether or not they are in earnest about this matter."

Why will you expose the general commerce of this country in which all of the small dealers, the small merchants, the agriculturists, the miners and the timber-men, all the industrial interests are concerned—why will you expose them to injury in your act of Congress, requiring the President of the United States, as you say you have required him (and you threaten to impeach him if he does not do it), to put an end to the commercial intercourse that we have had between these two peoples, and yet leave your great railroads and the rich traffic they enjoy out of the question?

Mr. GEORGE. May I ask the Senator from Alabama a question?

Mr. MORGAN. Certainly.

Mr. GEORGE. I wish to ask whether the recommendation of the President, if carried out, relative to the transshipment of goods as provided for in Article XXIX of the treaty of 1871, will that simple act injure anybody in the United States except the railroad companies who do business with Canada?

Mr. MORGAN. Not a human being. These railroad companies are thrown into direct competition with the St. Lawrence River. It is a question whether they would carry those goods or whether the St. Lawrence River steamers would carry them. When the St. Lawrence River is blocked up with ice, then the goods would have to come this way, and they would have to pay duties. As a matter of certainty the whole arrangement would hurt the Canadians and benefit our own people. But that is not the disposition evinced here.

The President of the United States is censured and threatened because he dares to stand between the interests of the people of the United States and the blow they must receive from this act of Congress. The demand that it shall be executed according to their will includes the demand also that he shall abdicate his constitutional powers—refuse to exercise his power—of treating with Great Britain upon the fisheries question until he has done something for the supposed betterment of the fisherman in the way of retaliation, and that will produce serious commercial distress to our own people, at the same time retain in favor of the railroad companies all this harvest of money that they have been gathering in carrying over their road three hundred millions' worth of property that they have been earning back and forth in the last six years. That is all there is of it. The question is not going to be submerged under the dust blown over it, and it is not to be buried out of sight. It will force itself upon the attention of the people of the United States, and the President's wise and beneficial recommendations in this message will receive their hearty approval.

Mr. SHERMAN. Mr. President—

Mr. HALE rose.

The PRESIDENT *pro tempore*. The Senator from Ohio.

Mr. SHERMAN. I yield the floor to the Senator from Maine.

Mr. HALE. I shall occupy but a very little time.

The President's message is a desperate attempt to recover lost ground. It is a confession that the attitude taken by him and his Administration as to the treaty which has just been rejected by the Senate is an attitude that has no force in it. The treaty was presented and urged and has been kept before the American people as the panacea for all the ills that affect business and communication between the people of the United States and the people of Canada. That treaty has been rejected by the Senate, upon which the President of the United States, instead of acting upon the statute already passed giving him the power of retaliation as to the relations between our people and the people of Canada, comes in with a message demanding more law to enable him to set right grievances which for the first time he has brought out here, that rest upon our people owing to certain acts of the people of Canada or of their government.

Now, Mr. President, nothing has shown more clearly than has the President's message the wisdom and patriotism of the course taken by the Republican Senate in rejecting this treaty as a worthless treaty.

The President, by reason of the action of Republican Senators in rejecting this treaty because it was worthless, and because it did not reach the case, is now coming nearer to the position which any American administration that fittingly represents the American people ought to occupy. He is driven to that by the fact that his treaty which was urged upon us month in and month out as the panacea for all evils is dead and buried. And at once, in his distress, his treaty having failed and he and his Administration having been discredited, as we are learning by the English newspapers (which influence the Administration more than our newspapers do), the President attempts to take the view that we have been taking for months past. One can well imagine the conference of the familiars of the President, if he have any, after the defeat of the pet measure of the Administration, and when they realized the view that was to be taken, not only here, but by the world outside, that the Administration was defeated and humiliated—one can understand how the President and his associates, his familiars, turned to some new method of securing the confidence of the American people.

In some remarks that I had the honor to submit to the Senate in the month of June last I called attention to the fact that in dealing with this subject-matter the Administration had not embraced grave subjects which are now made the basis of the President's communication.

On that occasion I inquired why it was that in making up these negotiations the grave subjects to which I referred had not been included, and I predicted then that until a treaty was negotiated upon the basis of all these subject-matters there would be no accord between the countries affected, and no satisfactory result reached.

The Senator from Alabama [Mr. MORGAN] who has just taken his seat says that that could not have been done because the representatives of the British Government, when they appeared here, were not authorized by their letters of instruction to treat of these subject-matters. Why, Mr. President, that was not the time when the Administration first took cognizance of the subject. When the ship had brought here Mr. Chamberlain and his assistants, and when the railroads had brought down his Canadian associates upon the board, that was not the time for the Administration to interfere. Negotiations, like everything else between two nations or individuals, are set afoot long before the final instructions are given to the negotiators, and all the subject-matters that should be embraced in a negotiation are the subject of communications back and forth between the one power and the other before they are agreed upon. When the Administration determined that it would treat with Great Britain upon questions arising in the relations between the Canadian people and our people, all of these subjects ought to have been embraced. That is precisely what I said two months ago, and the Senator from Alabama was not able to make me an answer.

The President now sends in a message covering these very points. Why has he waited until this time? What is this message but the desperate attempt of the President to recover lost ground with the American people after the rejection of the treaty which fell dead in the Senate a few days ago, when the Senate voted it down? There is not a single subject-matter of the message that was in any way discussed, or considered, or alluded to by the negotiators of that treaty.

In arraigning the Administration at the time of which I have spoken, I distinctly referred to these very things—the transshipment of fish by us through Canadian territory; the treatment that is visited upon our people in the British territory and water ways, where the Canadians discriminate against us; the almost incalculable advantage that the Canadian railways gain by transporting their goods through our territory over and above what we gain from them, setting aside all the questions that arise on the Pacific Ocean. I stated distinctly that the treaty had nothing whatever to say as to these important questions. Why has the President waited until this treaty was rejected before presenting this appeal to the Congress of the United States? Is it because he and his administration are discredited, and this is the effort to recover lost ground? Why, sir, if the treaty had been accepted by the Senate and it had been ratified, there was nothing in it that should

prevent the President from coming in and making this same demand with regard to the subject-matters of this message.

The American people will understand this. They will appreciate that the President has said to Congress and to the country that this treaty was wise and all-embracing; that it covered everything, and would be a final settlement of our difficulties. And we have had it dinned into our ears day after day by the Senator from Alabama and others that this side of the Chamber was unpatriotic because it did not accept the treaty. We have been told that the underlying objection on our part was a partisan desire to gain a partisan advantage! And now, after all that has been said, the President himself comes forward with a message demanding more legislation upon subject-matters that, as I have already said, are no more embraced in the treaty than are the words of the Declaration of Independence.

With the infirmity which has characterized the Administration up to this time, with the lack of ability to do anything in a direction that is American, the President does not now propose to do anything. He comes before us after having failed in his much vaunted treaty, to find fault with the statute that was passed by a Republican Senate and by a House of Representatives in sympathy with him—a statute putting the power of action into his own hands, which he has waited for eighteen months without putting into execution. He now states that that statute is not enough; that there is no power given to him to retaliate against Canadian aggression!

Why has the Administration been able to deal with the situation when it was not a question of our being protected, but when it was a question of giving undue advantages to Canadian railways and Canadian shipping companies? Then the Administration had no difficulty in dealing with the question of the shipment of goods across our territory or across the Canadian territory. The act of the Secretary of the Treasury that permitted a British line of steam-ships to take foreign imported goods at San Francisco, a port of ours, and transport them without duty to another port of ours, and to the terminus therefrom of the Canadian Pacific Railway in Canada, so that they might receive the benefit of the freightage of those goods, was something as to which this Administration did not hesitate.

There was no message sent to Congress then demanding that we should settle the point whether or not the Administration had power to give this immense advantage to that line of British steam-ships. When Secretary Fairchild issued his letter of September 4, 1886, giving this British company that advantage, making it practically an addition to the Canadian Pacific Railway, giving it the privilege of taking goods from one port of ours, San Francisco, and transferring them to another port in the North, and from thence to the Canadian Pacific terminus, nobody heard then that there was any question that Congress should give a construction of the right that the Secretary of the Treasury had as shown by his letter of September 4, 1886. The whole of that privilege was given by the Secretary, and that British steamship company has the same right now to come into our port of San Francisco that an American company has, and to take goods there and to touch and trade at ports of ours; and instead of our companies being given the benefit of freightage on all this vast amount of goods that come in, the benefit goes to the Canadian railway companies.

The attitude of this Administration is not one that raises a question between the railroads and the people, as the Senator from Alabama has said. The question is whether the roads that have been built by American money, the roads that have pierced the continent, and under which our great cities and towns have grown up, shall receive, as they should receive, the benefit of the commerce crossing the continent, or whether British companies, Canadian companies, whose roads were built by governmental subsidies (by subsidies that Great Britain herself gives for the purpose of increasing her military power and of increasing the thrift of her Canadian cities and towns) shall have the benefit, and not our companies and railroads. On that question the President of the United States never hesitated as to the power of his Administration; he did not apply to Congress for more legislation or more authority.

Mr. President, that act of retaliation, passed by Congress and approved by the President of the United States, gives him ample power. It is an act that is farther reaching and more extensive than any act that has ever been called forth in the history of the American Government to be exercised by any administration. These grievances that he now arrays before us so strongly have existed for the last two years or more, and it does not lie in the mouth of the President, with such an act as that at his command, to attempt here to recover fallen fortune and set back the tide of battle (which has been going against himself and his Administration) by this attempt to gain favor again with the American people. The American people will see through it.

Mr. VEST. May I ask the Senator from Maine a question?

Mr. HALE. Yes.

Mr. VEST. Do I understand the Senator now to assert that under the retaliation act of 1887 the President of the United States would have the power to retaliate as to the acts stated in his message? Would he have the right to retaliate as to anything except as to fishing vessels and the objects specified in the act of 1887?

Mr. HALE. I might answer the Senator, and it would be a very complete answer, by saying that I would be willing to wait and see

whether the President would execute that act even on the narrow basis on which the Senator from Missouri sees fit to put it.

Mr. VEST. That is an entire evasion, if the Senator will permit me. He arraigns the President of the United States, as I understand him, very distinctly, because with the power in his hands the President has not exercised it.

Mr. HALE. I arraign the President of the United States because, for the first time, after his treaty has been rejected—

Mr. VEST. Ah!

Mr. HALE. For the first time, now, he comes in here and speaks of these grievances which have been existing for years. If he has not the power under the retaliation law to act in these matters, there is no sense in his having waited until now to ask for more power. The situation is the same as it has been for years past, and there is no sense in the President coming here now and making this demand after, as the foreign papers admit, the defeat of himself and his administration by the rejection of this treaty.

Mr. VEST. Then I understand the Senator to say, by implication at least, that that power does not exist under the act:

Mr. HALE. I have no doubt an act could be made that would give him more power, but under that he has such plenary power as if exercised in his discretion would at once bring this matter straight to a head, and we should know where we stood.

I did not mean when I rose to take up so much of the time of the Senator from Ohio, and I thank him for his courtesy.

Mr. SHERMAN. Mr. President, I must confess that the message of the President of the United States gave me more pleasure than I usually derive from documents coming from that high authority. It is the first assertion made by the President of the United States of what I consider his patriotic duty in the protection of American citizens in their rights. Therefore I welcome his message with pleasure, even although I look upon it as rather in the nature of a political movement than as a movement in defense of American rights. I think very much as the Senator from Maine [Mr. HALE] has expressed himself, that this is a movement to retrace lost ground, because it is manifest that the treaty which we have been acting upon for a number of days did not excite the support of any portion of the American people except so far as it was dictated by political reasons to support a Democratic administration. So far as I know in the expression of public opinion there was a general condemnation of that treaty as totally insufficient to secure the rights of our fishermen or any American rights, as lowering the tone, under British influences and British promises, of the position hitherto taken by American diplomatists. Therefore I regard the message of the President with pleasure.

If the President of the United States had based his treaty upon the principles laid down in this message, there would have been no difficulty about the treaty; it would have been ratified, I believe, by the unanimous consent of all, because this message does assert the rights of American citizens, it does complain of the injuries done by the Canadian authorities. I do not extend that complaint to the British authorities, because I believe all these difficulties were merely local, growing out of a desire of the maritime provinces of Canada to press unduly what they claimed to be their rights. Therefore the assertion by the President of the United States of the wrong done to our fishermen and the rights of our people and the misconduct and injustice done by the Canadian authorities gives me pleasure; and, as I have said, if the treaty had been based on these principles we should have had none of this long debate; we should have had the assertion of American rights under the law of 1866. This law was passed in cooperation with Canada, for notwithstanding the impression of the Senator from Alabama [Mr. MORGAN] our statute was supported by Canadian law of a reciprocal character. This statutory arrangement was carried on for seventeen years, to the vast benefit of both countries. Those were reciprocal rights provided for, first, by our legislation, and next, by Canadian legislation, and under the laws of those two countries this exchange of products, this giving to them a short passage-way to the ocean, especially in the winter time when the River St. Lawrence is closed, has taken place. It was based upon reciprocal legislation of the Canadian Dominion and of the United States of America. It was not based simply upon the laws of the United States.

Now, Mr. President, the main question in discussion here to-day is whether or not the twenty-ninth article of the treaty of 1871 was abrogated by the notice given in 1883 and by the subsequent action of Congress. This is made the principal point by the President of the United States, he affirming on the one hand that the twenty-ninth article was abrogated as the necessary result of the measures I have already alluded to. It seems to me upon reading his argument a very plausible one, and if I were to rest my judgment entirely upon the facts stated by him in his message I should be inclined to think that Article XXIX, being only tributary and incidental to the articles that were designated by the act of 1883, was abrogated with them; but this is a question that I would not decide upon the mere reading of the message, especially in view of the strong authorities to the contrary. It seems that the conferees on the part of the Senate, the Senator from Alabama [Mr. MORGAN] and the Senator from Vermont [Mr. EDMUNDS], concurring, agreed

on a conference report to the Senate on the retaliatory act of 1887 in which they say expressly that Article XXIX is still in existence and was not abrogated by the law of 1883. I will read but a single paragraph from it. This was signed by these conferees, eminent gentlemen, distinguished as lawyers and members of the Committee on Foreign Relations, and therefore presumed to be familiar with the subject. They report:

When the United States abrogated these articles, that completely ended the influence of that treaty over our fishing rights. Article XXIX was not terminated, but it never had the least reference to the fisheries treaty of 1818, to enlarge its scope, change its meaning, or in any way to affect any right to which that treaty related. Yet, if that is not the true meaning of the twenty-ninth article of the treaty of 1871, this present treaty in no way affects that article, and it stands for all that it was ever worth in favor of our fishermen.

It was subsequently treated by the Senator from Alabama in his minority report at this session on the fishery treaty and also by the majority report as still in existence. Whether it be or be not has no bearing upon the merits of this question. If Article XXIX was abrogated, and is no longer a part of the law of this country, then, as a matter of course, there still exists the reciprocal legislation of 1866. If the article is abrogated, then we are remitted to the act of 1866; and what is that act? That act is simply a reciprocal agreement made to continue during the pleasure of the two parties, which by the express provision of our statute the Secretary of the Treasury might at any time for the causes stated nullify or revoke, and no doubt the Canadian authorities might at any time abrogate it—a mere legislative agreement made between two powers to exist only while the two powers consented to it. And what was the law of 1866? It has been read here several times and I will not have it read again, but it plainly conveys the authority to the people of Canada to send through the United States for foreign shipment their property, goods, chattels, and merchandise, without the payment of duty. There is a provision, also, on the part of the United States that all these goods shall go out free, but subject at any time to the regulation—I do not now recall the exact language—but subject entirely to the approval of the Secretary of the Treasury; so that it could be at any time abrogated.

I remember that the same law applies to Mexico, and at one time it was my duty to examine as to the power of the Treasury Department over that matter, and for a time the free passage of goods was suspended with Mexico by the Secretary of the Treasury. The plain provisions of the law authorized it to be done. At a time when there was difficulty on the Mexican border, when our whole commerce was suddenly arrested by forays and raids by Mexicans, the Government of the United States, through its executive officers, suspended the operation of this act and refused to allow shipments to pass through on the Mexican border. This was at a time when the laws of the United States were constantly violated by introducing for consumption free of duty articles that were dutiable in plain evasion of the law. The same power was exercised properly by Mr. Manning in the two orders that were read by the Senator from Massachusetts [Mr. HOAR].

I say, therefore, that whether Article XXIX stands or not, the power of the United States and the power of the executive authorities over the subject-matter is ample and full under existing law. If, as the President thinks, that article has been abrogated, the Secretary of the Treasury can exercise the powers provided for by the act of 1866 by suspending the transit of goods when the Canadian authorities do not observe reciprocal obligations.

If it is not abrogated it is none the worse for the American nation. If Article XXIX stands, we shall see that this matter is entirely within the control of the executive authorities upon the basis stated by the Senator from Alabama and the Senator from Vermont. The first clause of that article is as follows:

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been or may from time to time be specially designated by the President of the United States, and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Government of the United States may from time to time prescribe; and under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such possessions through the territory of the United States for export from the said ports of the United States.

This, therefore, gives to Canada on the one side the right to send her goods to foreign countries or to pass through our country back into Canada again, all the rights that are now claimed and which she has enjoyed to the extent of \$270,000,000 in the last few years. But on the other hand, what right have we? Here I wish Senators to see what rights the United States have by virtue of this article of the treaty of 1871:

It is further agreed that, for the like period, goods, wares, or merchandise arriving at any of the ports of Her Britannic Majesty's possessions in North America, and destined for the United States, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the said possessions, under such rules and regulations and conditions for the protection of the revenue as the governments of the said possessions may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said possessions to other places in the United States, or for export from ports in the said possessions.

This is as clear language as can be framed by mortal man. It gives every American citizen the right to convey any goods, wares, or merchandise in the broadest terms possible, free entrance into every port and through any possession in the British dominions on this side of the water, the right to transship, the right to move them into our own country without let or hindrance, without exception or qualification, and without duty. That is the right we have under the treaty. If that is a subsisting provision of the treaty they can not deny to our fishermen the right to land in their ports, enter their harbors, transship their catch, and sell it in the markets of the United States. You can not frame language clearer. The British Government acted upon that construction, and during the existence of certain articles of this treaty, and until 1883, American fishermen did exercise this right, did go into the port of Halifax and other ports along the coast there and transship their goods. And they have that right to-day if the twenty-ninth article of the treaty is in force. If it is not in force, then they have the right, which stands unrepealed by the acts of the two countries, under the laws of 1866.

I will now read section 6 of the law in this connection, so that it will be seen according to the plain provisions of the treaty and of the law, one or the other of which is in force, that the reciprocal rights of both American and Canadian fishermen to free transit of goods and merchandise are equally prohibited by the law and the treaty.

Sec. 6. That imported goods, wares, or merchandise in bond, or duty paid, and products or manufactures of the United States, may, with the consent of the proper authorities of the provinces or republic aforesaid, be transported from one port or place in the United States to another port or place therein, over the territory of said provinces or republic, by such routes, and under such rules, regulations, and conditions as the Secretary of the Treasury may prescribe; and the goods, wares, and merchandise so transported shall, upon arrival in the United States from the provinces or republic aforesaid, be treated in regard to the liability to or exemption from duty, or tax, as if the transportation had taken place entirely within the limits of the United States.

That is, we had absolute, under this act, so far as the laws of the two countries provided for it, free trade or reciprocity. That law still stands upon the statute-book. So in either horn of the dilemma, whether we rest upon the treaty or rest upon the law, the rights of our fishermen are clear and unquestionable.

That is not all. The British Government, however, did put an end, according to the message of the President, to these rights under the treaty. At that moment the President of the United States ought to have acted, or if he had not the power he should have promptly, on the meeting of Congress, called our attention to the fact. Here is this significant passage in the message of the President of the United States:

In the year 1886 notice was received by the representatives of our Government that our fishermen would no longer be allowed to ship their fish in bond and free of duty through Canadian territory to this country, and ever since that time such shipment has been denied.

Two years ago that notice was given by the British Government and the right of the citizens of the United States conferred by this treaty, or conferred by these reciprocal laws if the treaty does not exist, was nullified, rejected, set aside by a formal notice to our authorities. What was done in consequence of that? Was any action taken? Was the attention of Congress called to it? Was there any proclamation made? Why, sir, under this state of circumstances stated by the President himself, the very moment this action was taken by the Canadian authorities, the clear and unquestioned right of the United States and of every executive officer of the United States was to disregard the reciprocal provision in their favor just as broadly as it might be thought to be for the interest of the United States to exercise that right. When Great Britain notified us that she would no longer concede to us the rights conferred upon the United States by that treaty, that moment the reciprocal rights conferred on her were at the mercy of the executive authority, and if the Executive had not power enough to give that notice as the British Government did, then he should have called on Congress for power to declare that the reciprocal rights conferred upon the people of Canada were at an end.

Mr. HALE. Will the Senator allow me right there to ask whether it was not upon the heels of this act of Canada notifying us that our privilege of transit and transshipping fish was to be taken away from us, that the Secretary of the Treasury granted this great privilege to these British lines upon the Pacific coast?

Mr. SHERMAN. I do not know much about that.

Mr. HALE. It was almost at the same time.

Mr. SHERMAN. No doubt the Senator is correct in his statement. I do not know about it myself, but I do know about this. In consequence of offensive acts by the local authorities, and especially the denial by the British Government of our rights under the treaty or of our rights under their law to transship our fish, etc., from Halifax and other ports, Congress in due time did pass the retaliatory act, which provides that the President of the United States shall have power—

To deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States.

So the President now has the power to prohibit any goods from coming into the United States and through our ports as well as fish. It is not confined to fish. My own opinion is—

Mr. GEORGE. Will the Senator allow me?

Mr. SHERMAN. Yes, if I am in error in anything I have stated.

Mr. GEORGE. I desire to call the attention of the Senator to the words in the statute he has read. It applies only to goods coming from the Dominion to the United States, and not to goods coming from any foreign country to a port in the United States to be transhipped to Canada.

Mr. SHERMAN. It includes all "goods" as well as fish. These come from citizens of the United States; they are brought by citizens of the United States. Our interests in the fisheries on the coast of Newfoundland are just as much part of our territorial rights as the State of Mississippi. They come from a region where we have territorial rights admitted on all hands, and come into their ports, the law plainly allowing all goods, wares, and merchandise of citizens of the United States to be brought within any port of the Canadian Dominion and to be transhipped. The fish here are not goods transported from England by way of Halifax into the United States, but they are goods transported from our own country, because on those Newfoundland coasts it is admitted on all hands we have an equal right with Great Britain and enjoy that right. The Canadian fishermen catch fish side by side with the Yankee fishermen, and they take their goods into the harbor of Halifax and ship them over a railroad built and owned by American citizens through the State of Maine to the city of New York and supply our people with fresh fish preserved on ice, while the American vessel catching fish alongside the Canadian vessel is not allowed to go into Halifax and transship those goods. Why? Because Great Britain denies that right in the face of the twenty-ninth article of this treaty that exists between the United States and Great Britain. But if, as the President thinks, that treaty is abrogated, we have the right under the law as it stands to demand reciprocity and to give to them the same measure that they deal to us.

Mr. President, this, it seems to me, covers the point. What I wish to say in all seriousness, and I say it without the slightest party feeling, is that I am glad we are likely to come together and harmonize on this old contention. I hope the Senators on this side of the Chamber are willing to make proclamation according to the ideas now advanced by the President. I say we can not be expected to permit Canadian fish caught on the Banks of Newfoundland to be carried over our railroads into the American market free of duty when the Canadian authorities will not permit American fishermen to ship fish caught at the same place to be transported over the same roads to the same market. Let it be understood that the American Senate is united upon that proposition, that we will insist either upon the enforcement of the treaty or the law; that we will have equal rights or that we will deny them the rights that they deny to us. If you are willing to stand upon that position, we will all act together. If the President needs more authority to carry out that doctrine we will give it to him without stint or limit. I do not see myself that he needs it, because either the law stands or the treaty stands; and the nullification stands according to the statement of the President. What more do you wish to do than simply to deny to them the same privileges and rights which they deny to us?

I assure you that the English people will not resist this plain proposition. They may negotiate in aid of their Canadian subjects and do what they can to protect and give the Canadian fishermen advantages over American fishermen, but when it comes to a question of equal rights between equal nations and equal peoples we will have no controversy with Great Britain. And this message of the President is a sign that he is willing to stand there, and if so I do not think there will be much trouble about this fishery question.

I do not want to weary the Senate now, as all this matter has to be debated over again; but I wish to say a word upon the other branch of the question, which is entirely distinct. Even there I am perfectly willing to stand where the President does. But it is entirely a distinct proposition, not yet considered by us. It ought to have been considered before. The Senator from Maine called our attention to it early in the session. I refer to the discrimination made against us all along the northern lakes by the provincial laws of the Dominion Parliament, about some of which I know, having looked into the laws.

What is the condition? When we construct a public work in aid of commerce, we make it free to all the world. The Canadian fishermen can go through the Sault Ste. Marie Canal without paying one cent of toll. They come into our harbors without any port charges or any taxes whatever that are not imposed upon American citizens. The general policy of our people in the Northern States is to encourage the Canadians, help them along, give them privileges and rights. But how do they do when we enter their jurisdiction? When we go through the Welland Canal we have to pay toll. That is not objectionable if the Canadians pay toll, because then we are on a footing of equality. They never have agreed to allow their canals to be free of tolls as we have, but they charge tolls with a view to their maintenance and improvement. But now it turns out, according to the President, that they collect the tolls from us and keep them in their treasury when the goods are shipped to American ports, but when they are paid by Canadian vessels to the same amount, and the Canadian vessels go to Montreal or any other Canadian port, they are refunded.

That is a condition of gross inequality far worse than any which the interstate-commerce law was intended to correct. That is not right. We ought not to submit to it, and we ought here again to agree that

whatever measure they mete to us we will mete out to them. If they make discriminating tolls against us, we should make discriminating tolls against them. There is no other principle upon which two nations side by side can live.

Our nation is like a great big boy, with an overflowing Treasury, bountiful and generous, and careless what we do, not only for our own people but for all the world. When we are dealing with the Canadian people they are more careful. They look out for the dollar much more sharply than any of the Yankees that you think are so careful; they look out carefully, and now they are practically levying discriminating duties against our vessels so that there is an object in carrying American produce to Montreal to be shipped from Montreal instead of from New York or Oswego or Buffalo.

We ought not to submit to that; we ought to say so at once; have a united vote in the Senate, when this matter shall be reported back to the Senate, that we will insist upon reciprocal treatment.

This arrangement of sending goods through Canada and then to Portland is a matter of mutual benefit to the people of both countries, and if conducted fairly and properly there can be no complaint about it. If we get a portion of their commerce, or our neighbors get a portion of carrying goods across the continent, well and good; that is all right as long as we are on equal terms, and when we are not on equal terms, then an injustice is done to our people that we ought not to submit to.

Mr. President, that is all I have to say about this question. Let it go to the Committee on Foreign Relations and be considered there. This question of law and fact will be presented no doubt in due time. But I wish to say one thing more about the President's message.

It seems to me that the position taken by the President is a good deal like that held by him as to the payment of the public debt. My former old and honored colleague [Mr. Thurman] is going around through the country talking about the surplus money in the Treasury there accumulated all because we Republicans will not let it out. Of all the financial management that I have read or know of the worst is that by the present Administration. Here there was an accumulating surplus in the Treasury day by day and year by year since the first day Mr. Cleveland entered the Presidential chair. What did he do with that surplus revenue? He did not make proclamation of it for two or three years, but let it accumulate and accumulate until he did not know what to do with it. Finally the attention of the Administration was called to the fact that they ought to buy bonds with it. Well, Mr. Cleveland, with his sharp construction, thought he had not the power to buy bonds; he thought he could not do it legally. The law confers the power upon the Secretary of the Treasury.

The President had no more power over it than the Senator from Connecticut before me [Mr. PLATT] has. The law confers it upon the Secretary; it was his duty to buy bonds. What untold sums have been lost by his failure to comply with that law. Until recently, during nearly all the administration of Mr. Cleveland, the 4 per cent. bonds have been sold in the market at about 123. I have here the American Almanac giving the value of the 4 per cent. bonds during his administration, and they have been usually sold at 123. If the United States had quietly watched the opportunities in the way the present Secretary's predecessors had done, he could have gone into the market and absorbed those bonds to the amount of half a million or a million at a time and bought them up at the market price, 123; and then how much money would have been saved to the Government of the United States.

My former colleague says they have over \$100,000,000 of surplus. If they had applied that one hundred million in the purchase of bonds they would have saved 4 per cent. per annum for three years—that is, 12 per cent. And besides, they would have saved 6 or 7 per cent. lost by the advance of bonds. At any time during the administration of Mr. Cleveland, if his Secretary of the Treasury had exercised the power conferred on him by the law, he might have saved the Government of the United States from 12 to 16 per cent. on the whole hundred million of dollars if he had invested it in bonds of the United States. But he would not do it because he had not the power. So the President sent to Congress and asked for power, just as he has done in this case, when he had ample power, and both Houses declared unanimously that he had the power, and then, after the bonds had gone up to 127 or 128, when he had lost three years' interest on a large portion of this accumulation, he commenced to buy bonds and complains that they are too high, and that he calls wise financial management. So now here is a law on the statute-book for over a year, to enforce a demand on the Canadian authorities that our fishermen who are there carrying on their hazardous enterprise should have the right to enter the port of Halifax and ship their goods under the plain provisions of the treaty or the law, and if that right was denied, then here was the law expressly prepared for that particular case to authorize the President, not to do any violent act of retaliation, not to involve us in any dangerous or delusive measure which would excite the public mind and probably create animosities between these two great countries. But suppose he had simply said, "Well, if you deny to the Yankee fishermen the right to transship their fish, we deny you the right to bring fresh fish into Maine, Boston, and New York, and scatter them all over, cured by ice," for that is the effect of it—ice takes the place of salt.

That simple remedy which would be the natural dictate of any ordi-

nary man was never applied; but it could have been applied, and no man knows that better than Senators on the other side of the Chamber. And now when we have had a seven weeks' debate on the treaty, and the Senator from Alabama has filled, I believe, fifty or sixty columns of the RECORD in favoring the treaty, and it has finally been rejected, now all at once we are surprised with a demand for more power, more power, more power! Why, he has power enough to bring the Canadians to terms in twenty-four hours.

The mere declaration of these two points I have mentioned, that we will not submit to allow free fish to come into our market as long as they deny our fishermen the rights guaranteed to them by treaty, and we will not allow them to discriminate against us in the use of their great transportation lines, but if they are free to one they must be free to both, if there is a toll to be paid that toll must be paid honestly, not paid back to one and never refunded to the other—if we should deal with the Canadians upon the principle of justice and equality and right, we should win their favor rather than cause their opposition.

I said the other day that I believe the measure of the future is more thorough, generous, liberal interchange of commodities between these peoples, and I think the result of all ought to be the union of the Dominion of Canada and the United States. It would be better for all. The very friction that is encountered by this fisheries trouble away off on the coast, all this question about the canals between Lake Erie and Lake Ontario, and all this question of shipping from San Francisco around to Portland in order to get cheap transportation over the Canadian Pacific Railroad, all the controversies that occurred in Manitoba when Manitoba revolted against Canadian authority and built a railroad to connect with one of our railroads—all these irritating circumstances are likely to increase from time to time, and they are increasing until the time may come when two great and powerful nations involve themselves in more dangerous controversies, which God forbid!

I believe that a policy on the line I have indicated, of generosity, but always of equality and of liberality, will finally bring these two countries together in one harmonious government, and that is what we ought to desire to see.

Mr. MORGAN. Will the Senator from Ohio allow me to inquire whether it was not the Republican party that put fresh fish on the free-list?

Mr. SHERMAN. Yes, sir; we did it to secure reciprocal advantages. We did it—what return did we get for it?

Mr. MORGAN. I do not know.

Mr. SHERMAN. If your Administration would only enforce reciprocity, for you have had time to do it, it would be all right. It would have been corrected if this was a Republican administration; but the treaty of 1871 could not be terminated until during your administration, and you took no measures to correct it.

Mr. MORGAN. If the Senator will allow me, I will say that we are trying to correct all the errors we can as fast as we can, if your party will permit it.

Mr. SHERMAN. Well, Mr. President, the Senator from Alabama does himself great injustice to make a party allusion of that kind. But if you leave the Republican party to prescribe the measures to get us out of this difficulty in which your Administration has involved us, we will make short work of it. [Applause in the galleries.]

Mr. MORGAN. Mr. President—

The PRESIDENT *pro tempore*. The Senator from Alabama will please suspend. The Chair desires to admonish spectators, who are present by the courtesy and the privilege of the Senate, that demonstrations of applause or disapproval are not permitted, and if they are repeated the galleries will be cleared.

Mr. MORGAN. I am sure the Republican party through its caucus has had perfect control over the recent treaty which we have destroyed.

Mr. SHERMAN. The Republican party will take the responsibility of destroying that treaty.

Mr. MORGAN. I am glad to hear it.

Mr. SHERMAN. And will take great credit for it.

Mr. BECK. I rise to ask the Senator a question, if he will yield to me.

Mr. SHERMAN. Certainly.

Mr. BECK. I ask whether there have not been three changes of our tariff laws, one in 1872, one in 1875, and one in 1883, the Senator from Ohio [Mr. SHERMAN] being chairman of the Finance Committee during two of those changes; and I ask whether he ever suggested that free fish should not be longer allowed? I wish further to ask whether or not in the tariff bill that has been under discussion for the last eight months in the other branch any Republican member of the House of Representatives ever suggested it during all that time?

Mr. SHERMAN. Let me answer the first question. During the time the Senator refers to he knows as well as I do that we were in treaty relations, and had bound ourselves by a treaty for ten years and two years longer until notice was given, and during that time we could not refuse to admit fish free without violating the treaty, and the Republican party never proposes to violate a treaty with any foreign nation.

On the other question, as to what was said over in the House about free fish, I do not know. I have never looked through the voluminous debates there. Will the Senator vote for such a proposition?

Mr. BECK. To do what?

Mr. SHERMAN. To put a tax on fish.

Mr. BECK. I said in a speech I made the other day that the whole object of this entire difficulty is to have the importation of fish prohibited, so that you can hire poor Canadians for little or nothing in the interest of Gloucester syndicates, and you dare not venture to stop the railroads in Vermont and Maine that are subsidized by the Canadians, as the President proposes, and if he had attempted to do it without asking for a law to do it the Senator from Ohio and the Senator from Vermont would have tried to impeach him for it.

Mr. SHERMAN. Let me answer the Senator from Kentucky who has not answered my question, by asking another. Is the Senator from Kentucky in favor of allowing free fish to come in to our market from Canadian fishermen when they deny to our fishermen the right to enter according to the terms of the treaty the harbors of the Canadian coasts, so as to exclude our people from competing with them?

Mr. BECK. I will answer that by saying that I will not punish the poor individual fisherman nor deprive the people of the United States of the right to eat fish. I will punish the Government of England or the Government of Canada that passes those laws and enforces them, as the President now proposes to do.

Mr. SHERMAN. Then the Senator from Kentucky is very much in favor of the poor Canadian fisherman, but he has no care for the poor American fisherman who is cheated out of his life-long employment and of the right that he has inherited from his ancestors for two hundred years.

Mr. President, I wish the heart of the Senator from Kentucky beat as warmly and generously for the Yankee fishermen of Gloucester—he seems to have a great pique at Gloucester; I do not know anything about the town; I have never been there—as for the Canadian. The great trouble is that he has no care for the poor fishermen of Gloucester, but for the Canadian fishermen his heart goes out like a gentle stream—

Mr. EDMUNDS. Like an impetuous fountain.

Mr. SHERMAN. Yes, like an impetuous fountain. That is better. I have said all I wish to say in reference to this question, which no doubt will be the subject of further debate after the matter has been acted on by the Committee on Foreign Relations.

Mr. GEORGE obtained the floor.

Mr. BECK. The Senator from Mississippi having the floor, will he allow me to say a word before he proceeds?

Mr. GEORGE. Certainly.

Mr. BECK. I wish to say to the Senator from Ohio that it having been believed to be the policy of the American people and in their best interest to allow fresh fish to enter this country free of duty, I do not propose, when trusts and combinations have been built up at Gloucester and Boston and everywhere else along that coast, to make all the people of this country pay \$2 a barrel more for fish than they do now by pretending to punish Canada and England for something they have done, to repeal our own tariff law in a respect that no Republican has ventured to offer to repeal either in 1883 or during this long debate. But I will reach out, if we have power to punish at all, for the men who are guilty of the great wrongs that have been complained of, and I will not allow the bonded goods to go through the country, even if the subsidized roads in Maine and Vermont do have to suffer. I repeat that when the President comes in a manly way and deals with a great subject, and a bill is now introduced in the other House, and another in the Senate, I want to see how far those patriotic gentlemen will go to reach the evil complained of.

When they said there was no power and no right to negotiate any longer, if the President had dared to do what he now says ought to be done, the gentlemen on the other side of the Chamber would, as they have threatened to do in their report, have held him responsible for a violation of this very thing, and your articles of impeachment would have been attempted to be brought up before now.

He has met the issue in a fair way; and the Senator from Ohio gets away from the treaty and talks about this Administration not buying bonds and how much we could have saved because they have raised the price. I am done with that; I am not going into that; but I want to say that he himself was the man, both as Secretary of the Treasury and as chairman of the Committee on Finance, who arranged our debts in such a way that we could not pay them, and fastened this sinking fund upon us, that made us tax ourselves \$50,000,000 a year more than there was any necessity for or more than the Government required, in order to enable the bondholders to rob this people out of the premiums now placed before them.

We are trying to get clear of those laws by reducing taxes, and for three years the Republican party have sat in the House of Representatives and have resisted every effort at reduction, and when a vote was taken two years ago for leave to bring in a bill, 140 men voted for it and only 4 Republicans could be found to do it; and when we tried again they voted it down. They resisted even the little effort made in

the other House at this session, and to-day, after four years of cogitation to see what they can do, they dare not present a bill on which they will go before the country.

Mr. SHERMAN. I wish very briefly to answer the Senator from Kentucky.

The PRESIDENT *pro tempore*. The Senator from Mississippi [Mr. GEORGE] is entitled to the floor.

Mr. GEORGE. It is getting so late that I believe I shall resign the floor entirely and let this debate go on.

Mr. SHERMAN. I wish to answer very briefly the stump-speech made by the Senator from Kentucky, and I will do it in a reverse order.

He says I am responsible for the fact that there is the prolonged period of thirty years to the 4 per cent. bonds. He knows, because he was here the other day when I showed from the public record, that the Senate of the United States proposed to pass a bill to issue bonds running only twenty years with the right of redemption after ten years; and if the law had been passed in that form in which it was sent from the Senate none of this trouble would have existed; but it was changed by the House of Representatives, of which the Senator from Kentucky was then a member. I believe he voted for the House proposition against the Senate proposition by which the time was extended to thirty years, and they were not redeemable during that time. Yet I am charged with the responsibility of lengthening these bonds.

Whatever my sins, I can claim to have always favored the right to redeem the bonds of the United States as the five-twenties and the ten-forties were issued to be redeemed; and if I had had my way we would have had the same kind of bonds issued instead of the thirty-year bonds. Now, enough for that.

The Senator talks about trusts. Mr. President, the great trusts of this country are in the control of the Democratic party. They are like the thief who is crying, "Thief!" "Thief!" If the Senator from Kentucky will do as much as I to prevent wrongful trusts he will have hard work to follow. I believe that any agreement whatever, whether in the form of a trust or any other form, that tends to restrain competition in trade or to prevent production in this country is unlawful by the common law and ought to be made so by statute law in every State in the Union and by laws of the United States.

The Senator lugs in trusts as if they were a Republican invention. Who controls the whisky trust in his own State, and the other trusts? Who controls the great sugar refinery trust? Who controls the great body of trusts that deal in domestic products? Ah, this talk about trusts as a party cry has spent its force. They are the common enemies of the people of the United States, and I trust that all parties will take their share in preventing illegal combinations to put up the price of property, or to restrain production, or to advance the necessities of life.

The Senator talks about the tariff. Well, sir, I am responsible for all the sins of the tariff, you may say, although I am only one out of several hundred who passed those laws. I believe the tariff laws of the United States since the war have been a most bounteous stream of wealth, have conferred increased wages, and done more for the health and comfort of the people of the United States than any other cause in the world.

The Senator is opposed to it all. He believes in the free trade that he brought from the old country with him, though I have no doubt the views are honestly entertained by him. I believe that it is the duty of the United States to give the American market to American productions, and to put such a rate of duty on every article we can manufacture in this country as will induce its manufacture here. I would make everything free that we can not produce here. Under the tariff laws as they exist (and the Senator says I have been responsible for their passage) more than one-third of the products imported from foreign countries are absolutely free of duty, and the other two-thirds are articles that enter into competition with our industries. We put protective duties upon those, and I shall continue to vote to do so.

My friend from Kentucky is very much in favor of the Mills bill. He thinks it is a little bit of a bill. It is just little enough to destroy one hundred industries from the very beginning, to cripple and paralyze great branches of trade, to reduce the wages of every laboring man in the country, to destroy the hopeful prospects in the Southern States, to bring desperate disaster and poverty where now there is comfort and comparative luxury.

The Senator from Kentucky and I differ and honestly differ, no doubt, upon this subject as widely as the poles. If I had the power alone and unsupported I would protect every industry and every branch of this country, North and South, East and West, without favor or discrimination; and to fully compensate the difference between the cost of labor in this country and in Europe I would make the duty so steady and so strong that everybody would be interested in it and interested in the development of this country; and then I would protect that policy from all combinations at home and abroad, from all trusts, and especially from consignments by Europeans to our country with a view to undervaluation.

That is my idea in regard to trusts and the tariff. Whether I have skipped any points made by the Senator's argument I do not know;

but if I have there will be time enough in the future to correct any error.

Mr. BECK. Mr. President—

The PRESIDENT *pro tempore*. Does the Senator from Mississippi [Mr. GEORGE] yield to the Senator from Kentucky [Mr. BECK]?

Mr. GEORGE. Certainly.

Mr. BECK. There will be time enough, if we can ever get a tariff bill before the Senate, to discuss all these things. I desire to say to the Senator from Ohio, if he thinks that I brought free-trade ideas to this country with me, that that was a good while ago, when I was perhaps a little bigger than these pages. I may have brought them with me, but I have endeavored as far as I knew how, and with the best lights before me since I have been a public man, to do what I thought was for the best interests of the country. That is all I care to say about that.

But when the Senator from Ohio talks about his own part in the transactions in this country I will show him, since he has challenged me and the matter is to be brought up, that he above all other men is responsible for the present condition of affairs in this country and for the surplus in the Treasury. Why, sir, in 1875, after we had reduced the war tariff only 10 per cent. in 1872, he raised the cry that the sinking fund was in danger, when he knew and had to report the very next year after he had passed the bill restoring that 10 per cent., increasing the taxes upon sugar, upon tobacco, and upon distilled spirits, and restored the 10 per cent., that the sinking fund was ahead of all its requirements \$225,000,000. He so reported the very next year, when he became Secretary of the Treasury.

His predecessor in the Department, William A. Richardson, had furnished a report that he had in his hand when he came into the Senate, and under it the war tariff that had been reduced in 1872 on the demand of the Senator from Iowa [Mr. ALLISON] and all the leading Republicans in both Houses of Congress was restored, when he knew that the clamor that the sinking fund was in danger was untrue, and the record showed it, and he proved it himself the next year.

The Senator from Ohio talks about the sugar trust, and says that it is very dangerous. In 1883 I sat here day after day and night after night to endeavor to bring down the taxation upon the sugar that went through the refineries so that the people of this country could get it, and we made it 2½ cents, and he went into a conference committee with no Democrat in the Senate on it—

Mr. SHERMAN. Because they refused to go.

Mr. BECK. He brought it back when the other House never considered it, and none of them had ever looked at it, and added 25 cents a hundred on refined sugar, making it \$2.75 per hundred instead of \$2.50, which was the maximum that they could obtain for it by a vote of this body upon a dozen trials; and in that conference committee, without daring to tell that he had done it, when he came on the floor of the Senate on the last night of the session, when I was attacking his conference report, he walked into yonder cloak-room and never opened his mouth, and never told us that he had added on the additional taxation in that secret conference, which made the sugar trust possible to-day.

That the record shows, and the printed bills will show it. While there may have been some difference of opinion as to what should be the true rate of taxation, the Senate had agreed and the House had not disagreed, that \$2.50 per hundred was all that they could have. He gave them \$2.75, and put them beyond the control of foreign competition.

On the 13th day of last March, I believe it was, when I was making a speech on this floor and was proving, as I thought, that trusts were maintained to the extent of the tariff tax which excluded other competition, he rose in his place and denied that there were any trusts in this country, and the RECORD shows it. Now the Senator says he will go as far as I will to destroy them. We will see when the time comes.

We had taken off every burden that was imposed by the internal revenue upon our manufactures, upon incomes, upon everything but whisky and tobacco. Three hundred and odd million dollars were at one time collected from internal taxes, \$127,000,000 of which came from manufactures alone. The tariff was increased because of those burdens; they have all been removed, and to-day with the tariff at 47 per cent., while the average paid as wages to workmen is less than 25 per cent. difference between here and abroad, an attempt to reduce the tariff from 47 per cent. to 42 per cent. is called a robbery, and free trade, and an alliance with the English and other foreign people to starve out our manufacturers!

The truth is that the struggle now is not to help American labor, for the Senator from Ohio stood by the importation of Chinese to the last minute, to degrade the American laborer. He stood by the bill that was enacted in 1864 to allow the importation of foreign laborers until after Mr. Cleveland was elected, whereby not only could men be brought from all parts of the world free of duty at the cheapest rate to drive American laborers out of the manufacturing establishments, but their importers could follow them and take away their little homesteads if they dared to run away from the men who brought them here, and sell the homestead over their heads whenever they ventured to leave the men who imported them.

All that met the sanction of the Senator from Ohio for twenty-odd years; there was not a complaint made about it; and now he comes out as the champion of American labor! He and his policy have beggared the farmers of this country until the mortgages upon men's farms are the rule rather than the exception. Our farmers have to sell in foreign markets at foreign prices and compete with the paupers of the world, and they are not allowed to buy what they must have unless it is from Mr. Carnegie or somebody who gets a million and a half a year by the bounty of Congress, and then has "the fat fried out of him" for a corruption fund, as Mr. Foster and your other men have demanded, to build up them and their machinery, for those are the only things that are protected.

Now the Senator comes and intimates that we are not acting in the interest of this Government if we dare to say that the war taxes shall be reduced. But I did not intend to go on with this matter now; I will hereafter, and I shall prove all I have said, and more too.

I will say this—and the Senator from Ohio may as well look out—that if it had not been for that very sinking fund which he proposed in 1875 an increased taxation to maintain, adding from \$40,000,000 to \$50,000,000 a year, the present condition of things could not have existed; and when the Senator from Iowa [Mr. ALLISON] rose in his place and told him what would be the effect of it, and that he would have to pay premiums to those people, he shut his eyes to all the assertions that were made, and not only fixed the time of payment, which was all perfectly right, and perhaps the longer the better, but refused to reduce the taxes, refused to remove the burden of \$40,000,000 or \$50,000,000 a year from the sinking fund, which could not be paid off before the bonds were redeemed.

That has brought about the condition of things that exists now. But when I brought up the question years ago to repeal that law and wanted him to give us a chance to reduce taxes, upon a call of the yeas and nays, we, with, perhaps, but one exception, voted for it, and he and his Republican brethren voted against it, as I shall show by the record.

Mr. SHERMAN. Although it is late in the evening there are two or three points I wish to answer, and I hope the Senator will bear patiently with me. He used rather harsh language, but I shall not reply to that; it is not my way of doing business.

He talks about a conference committee reporting the tariff act of 1883. Mr. President, the most cowardly act of the Democratic party that I have ever seen in my long public life was the refusal on that side to appoint a conference on the tariff bill as it was sent to us from the House of Representatives. Just think of it! I doubt whether in the history of the Government, from the foundation of the Government to this time, there was ever before the absolute refusal of one great party controlling nearly a majority of the Senate to take part in a conference.

In that case a conference was requested by the House of Representatives, and a conference committee was appointed on the part of the Senate. Two Democrats, the Senator from Kentucky [Mr. BECK] and the then Senator from Delaware, Mr. Bayard, and three Republicans, according to the rule, were appointed. The Democrats refused to serve. When before was that ever done?

The Senator talked about my daring to do anything. It is not worth while to say that to me, because I dare do anything that I think is right. I ask him if that was not a cowardly refusal by a great party, and then to come right back here and say that we are responsible?

We are responsible for the tariff act of 1883. We are responsible for some reductions in that tariff that ought not to have been made, and for which we paid severely, and for which the Democratic party arraigned us; but it was the Democratic party in refusing to serve on the committee of conference that made it a one-sided report. Gentlemen on the other side ought to remember that; and it is the last thing they ought ever to mention.

Now, as to the sinking fund. The sinking fund we provided for by a law in one of the earliest financial acts passed during the midst of the war, in which we set aside 1 per cent. of the revenues annually, to be increased by yearly accretions, to pay the public debt. The Senator says that in 1875 I insisted upon the payment of that sinking fund. I did. He says that there was an accumulation of the sinking fund. So there was. For several years the surplus revenues of the Government were more than the amount of the sinking fund, and they were applied to the payment or the public debt.

The Senator from Kentucky claimed that the accumulated revenue which was applied to the public debt in excess of the sinking fund should be counted out of the future sinking fund. That was a hobby of his; and I think the sinking fund is probably the chief hobby he has, because every Congress he introduces bills to repeal the sinking fund, and yet they never pass.

I did maintain the sinking fund as a matter of honor, as a matter of right. It is maintained by this Administration. Where is the recommendation from Secretary Fairchild, or from President Cleveland, or any other Democrat except the Senator from Kentucky in favor of repealing the sinking fund? He stands solitary and alone. His associates around him vote with him out of a kind of respect for him. He is a good fighter, there is no doubt about that. They do not believe

in it. I know there are men in my eye who do not believe in the abolition of the sinking fund, who look upon it as a violation of public faith, but they vote with him because they know it is a harmless amusement, and they indulge him by voting with him to repeal the sinking fund all the time; and he says I am responsible for it. Well, I am a pretty good scape-goat for all such sins as that. I am in favor of the sinking fund.

My friend again refers to the Chinese. Mr. President, I do not often talk about my record. Ever since 1872, when I saw the Chinese in California, I have been satisfied that the importation of Chinese laborers was a mistake, and that it ought to be ended, and I have voted for every bill upon the subject when the treaty between China and the United States allowed it. I would not violate a treaty with any foreign nation, especially with China. We had sent our ambassador to China and we had boasted, all of us, Democrats and Republicans alike, that we had broken down for the first time in two thousand years the seclusion of that great empire of 300,000,000 people. It was a feather in our cap. When Mr. Burlingame came back with his laurels fresh upon his brow he was toasted and feted in every part of the United States, and nowhere more than in California. They thought he had performed a great achievement for modern civilization, opened wide the doors of a vast empire.

But when the Chinese immigrants came in it was found that they did not affiliate with us; that they did not sympathize with us; that they did not bring their wives along; that they only came to gather what money they could and then go back to the country from which they came. Therefore an alarm sprung up against them, and as soon as the treaty could be changed to enable us to exclude them I was in favor of their exclusion. I have reported three bills here in the Senate for the exclusion of the Chinese. Every bill for the last two or three years except the one reported at this session at my request by the Senator from Oregon [Mr. DOLPH] has been reported by me as chairman of the Committee on Foreign Relations. The committee have considered the bills without regarding it as a party question.

I have voted for the exclusion of the Chinese except only when the treaty would not allow it, and before the treaty was changed I would go up to the extent of the treaty, and when the treaty was changed I went on from step to step, until now probably the Chinese are excluded by a law as mandatory as any law can be made.

What does the Senator throw that into my face for, when men of his own party were of the same opinion, when all of us around here were of the same opinion? I dare do anything but violate a treaty obligation, and I would not do that to save the Senator from Kentucky I do not know from what fate. I should dislike to have him meet a very severe one, but certainly I would not vote to violate a treaty under any circumstances except one of dire necessity, involving the fate of our country. That is the theory upon which a treaty rests. It is an obligation between two proud and spirited nations, and it ought never to be violated except by mutual consent. That is the ground upon which we on this side of the Chamber have acted.

My friend now who is candidate for President of the United States, and who I sincerely believe will be elected, stood in the same position. He was a member also of the Committee on Foreign Relations. The Senator from Vermont and the rest of us around here all voted for these bills just as rapidly and as fast as our treaty relations would allow us to do, and we went to the extreme verge. The last bill was passed in the Senate before the last treaty negotiated by this Administration was ratified by the contracting parties, and we sent it to the House and they passed it in the form in which we had passed it.

Now, it is merely a tub to the whale to talk about Chinese in the Senate of the United States. It would do very well in the far inland counties of Kentucky, clear on the hill tops; it would not be good in Lexington or Louisville, or any such place, but he might possibly tell that in the mountains of Kentucky.

The Senator said something about trusts. He says I said there were no trusts. What I said was that there were no considerable trusts in the foreign trade. The only trusts that exist there are trusts by commission where manufacturers in Europe send over their goods, transmit them to a commission merchant as a trustee, because he becomes a trust sometimes for many merchants in the same line of trade. That kind of trust has been exposed. Suppose a particular merchant or dealer in New York should be made a consignee and a trustee for a great many houses producing a particular line of goods, and they are sent all to him and no market price is fixed. He becomes a trustee. That kind of trust I have always been in favor of breaking down, and I think the Senator from Kentucky is; but when you come to some other trusts he is not so anxious about them. But we shall have enough time in the future to talk about trusts.

I hope now that the message of the President will be referred.

Mr. CULLOM. I am satisfied we shall not be able to conclude the disposition of the question to-night. I move, therefore, that the Senate do now adjourn.

Mr. BUTLER. The Senator from Mississippi [Mr. GEORGE] has the floor.

Mr. CULLOM. I thought he relinquished it.

The PRESIDENT *pro tempore*. The Senator from Mississippi was

recognized by the Chair, and yielded to the Senator from Kentucky [Mr. BECK] and to the Senator from Ohio [Mr. SHERMAN].

Mr. CULLOM. I do not desire to interfere with the Senator from Mississippi taking the floor on this question if he wishes to do so. Does the Senator desire to proceed to-night?

Mr. GEORGE. I do not; but I should like to have the floor and go on with my remarks on Monday morning.

Mr. CULLOM. The Senator desires to take the floor, but not to address the Senate to-night. I yield to the Senator from Wisconsin [Mr. SPOONER] for the purpose of submitting a conference report.

APPRAISERS' WAREHOUSE IN NEW YORK.

Mr. SPOONER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1661) for the erection of an appraisers' warehouse in the city of New York, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, and 7, respectively, and agree to the same with the following amendment: In lines 17 and 18, first page, strike out the words "seven hundred" and insert in lieu thereof the words "six hundred and fifty;" and that the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: Strike out the word "three" in said amendment and insert the word "two" in lieu thereof;" and that the Senate agree to the same.

JOHN C. SPOONER,
WM. M. EVARTS,
JNO. W. DANIEL,
Managers on the part of the Senate.
SAMUEL DIBBLE,
S. S. COX,
Managers on the part of the House.

Mr. EDMUNDS. Let us hear the action of the House read.

Mr. SPOONER. The House has adopted the report.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES, August 24, 1888.

Resolved, That the House concur in the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1661) for the erection of an appraisers' warehouse in the city of New York, and for other purposes.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference.

The report was concurred in.

REPORT OF A COMMITTEE.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the bill (S. 3486) for the relief of the State of South Carolina, reported it without amendment, and submitted a report thereon.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 8074) to provide for allotment of land in severalty to the United Peorias and Miamis in Indian Territory, it agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ALLEN of Mississippi, Mr. COBB, and Mr. PERKINS managers at the conference on the part of the House.

The PRESIDENT *pro tempore*. The Senate as in Committee of the Whole resumes the consideration of the unfinished business, being Senate bill No. 12, the title of which will be reported by the Secretary.

The SECRETARY. "A bill (S. 12) to provide for the formation and admission into the Union of the State of Washington, and for other purposes."

Mr. GEORGE. I should like to know if it is the understanding that I am entitled to the floor on Monday morning on the question of referring the message of the President.

The PRESIDENT *pro tempore*. The unfinished business has been laid before the Senate and will be the regular order at 2 o'clock, being the bill to admit the Territory of Washington as a State. The Senator from Iowa [Mr. WILSON] was interrupted in the midst of a speech yesterday afternoon by a motion to adjourn, which prevailed. He would properly have been entitled to the floor this morning to finish his remarks, but the debate upon the motion to refer the President's message continued by unanimous consent and without interruption until the present time.

Mr. WILSON, of Iowa. I desire to state that it is my wish to take up the resolutions reported from the Committee on the Judiciary, which were before the Senate yesterday and on which I commenced my remarks, after the morning business on Monday, in order that I may conclude my observations on those resolutions.

The PRESIDENT *pro tempore*. The motion to refer the message of the President of the United States to the Committee on Foreign Relations will not be resumed on Monday except by the affirmative action of the Senate.

Mr. CULLOM. I renew my motion that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

The motion was agreed to; and (at 5 o'clock and 38 minutes p. m.) the Senate adjourned until Monday, August 27, 1888, at 12 o'clock m.