tion of the bill (S. 185) to aid in the establishment and temporary support of common schools.

Mr. BLAIR. I can not conclude to-night, and I suppose that I ought to say to the Senate that the matter I have to place before the body, working as rapidly as I possibly can, will probably consume the amount of time given to unfinished business for two days, and I shall not occupy more than that time. Of course it is impossible to get through to-night, and I will give way to a motion to adjourn.

Mr. CHANDLER. I move that the Senate do now adjourn.

The motion was agreed to; and (at 5 o'clock and 7 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, February 19, 1890, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate the 18th day of February, 1890.

UNITED STATES MARSHALS.

William G. Long, of California, to be marshal of the United States for the northern district of California, *vice* John C. Franks, whose term will expire February 19, 1890.

Hutson B. Saunders, of Maine, to be marshal of the United States for the district of Maine, *vice* Charles B. Harmon, whose term will expire February 23, 1890.

POSTMASTERS.

Edward D. Rhoades, to be postmaster at Rensselaer, in the county of Jasper and State of Indiana, in the place of Nathaniel S. Bates, whose commission expires March 3, 1890.

Edgar B. Lyon, to be postmaster at Dayton, in the county of Montgomery and State of Ohio, in the place of Lewis J. Judson, removed.

Lincoln H. Gray, to be postmaster at Longview, in the county of Gregg and State of Texas, in the place of Fidelia Kilgore, whose commission expired January 13, 1890.

Daniel Gunn, to be postmaster at Sulphur Springs, in the county of Hopkins and State of Texas, in the place of Ira H. Harrison, removed.

SUPERVISOR OF CENSUS.

Wilson H. Soale, of Terre Haute, Ind., to be supervisor of census for the fourth census district of Indiana.

SURVEYOR-GENERAL.

William H. Pratt, of Eureka, Cal., to be surveyor-general of California, *vice* Richard P. Hammond, jr., whose term of office will expire February 22, 1890.

REGISTER OF LAND OFFICE.

Alonzo Cleaver, of Baker City, Oregon, to be register of the land office at La Grande, Oregon, *vice* Henry Rinehart, to be removed.

RECEIVERS OF PUBLIC MONEYS.

Edward M. Love, of Ainsworth, Nebr., to be receiver of public moneys at Valentine, Nebr., *vice* Samuel G. Glover, to be removed.

Quinby Vance, of Hillsborough, N. Mex., to be receiver of public moneys at Las Cruces, N. Mex., *vice* James J. Dolan, resigned.

Benjamin S. Williams, of Yankton, S. Dak., to be receiver of public moneys at Yankton, S. Dak., *vice* Francis M. Ziebach, term expired.

SUPERVISOR OF CENSUS.

Richard Derrick, of Brunswick, Rensselaer County, New York, to be supervisor of census for the fifth census district of New York.

WITHDRAWALS.

Executive nominations withdrawn by the President February 18, 1890.

RECEIVERS OF PUBLIC MONEYS.

Malcolm D. Mix, to be receiver of public moneys at Del Norte, Colo.

John A. Percival, to be receiver of public moneys at Devil's Lake, N. Dak.

CONFIRMATIONS.

Executive nomination confirmed by the Senate February 12, 1890.

COMMISSIONER OF INDIAN AFFAIRS.

Thomas J. Morgan, to be Commissioner of Indian Affairs.

Executive nominations confirmed by the Senate February 18, 1890.

RECEIVERS OF PUBLIC MONEYS.

Edwin W. Eakin, of Sully County, South Dakota, to be receiver of public moneys at Pierre, S. Dak.

William T. La Follette, of Plankinton, S. Dak., to be receiver of public moneys at Chamberlain, S. Dak.

REGISTERS OF LAND OFFICE.

Leslie H. Bailey, of Faulkton, S. Dak., to be register of the land office at Pierre, S. Dak.

Herman H. Natwick, of Brookings, S. Dak., to be register of the land office at Chamberlain, S. Dak.

PROMOTIONS IN THE ARMY.

Corps of Engineers.

Additional Second Lieut. E. Eveleth Winslow, to be second lieutenant.

Additional Second Lieut. Albert M. D'Armit, to be second lieutenant.

Second Regiment of Cavalry.

Additional Second Lieut. Ralph Harrison, to be second lieutenant.

Third Regiment of Cavalry.

Additional Second Lieut. George T. Langhorne, of the Fifth Cavalry, to be second lieutenant.

Sixth Regiment of Cavalry.

Additional Second Lieut. Charles D. Rhodes, of the Seventh Cavalry, to be second lieutenant.

Eighth Regiment of Cavalry.

Additional Second Lieut. Ulysses G. Kemp, of the Fourth Cavalry, to be second lieutenant.

Tenth Regiment of Cavalry.

Additional Second Lieut. Winthrop S. Wood, of the Second Cavalry, to be second lieutenant.

First Regiment of Artillery.

Additional Second Lieut. Ben Johnson (since resigned), of the Fourth Artillery, to be second lieutenant.

Additional Second Lieut. Delamere Skerrett, of the Second Artillery, to be second lieutenant.

Fourth Regiment of Artillery.

Additional Second Lieut. Walter A. Bethel, to be second lieutenant.

Additional Second Lieut. Morris K. Barroll, of the First Artillery, to be second lieutenant.

Fifth Regiment of Artillery.

Additional Second Lieut. Sidney S. Jordan, to be second lieutenant.

Additional Second Lieut. Edward F. McGlachlin, jr., of the Third Artillery, to be second lieutenant.

Seventeenth Regiment of Infantry.

Additional Second Lieut. Edward V. Stockham (since resigned), to be second lieutenant.

Twenty-third Regiment of Infantry.

Additional Second Lieut. James E. Normoyle, to be second lieutenant.

Twenty-fifth Regiment of Infantry.

Additional Second Lieut. Charles Young, to be second lieutenant.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 18, 1890.

The House met at 12 o'clock m. Prayer by Rev. GEORGE H. COREY, D. D.

The Journal of the proceedings of yesterday was read, except the portion relating to the introduction of bills, the reading of which, upon motion of Mr. PAYSON, was, by unanimous consent, dispensed with, and approved.

THE LATE REPRESENTATIVE KELLEY, OF PENNSYLVANIA.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, I ask unanimous consent to present for present consideration a resolution fixing a day for eulogies upon my late colleague, Judge Kelley.

The resolution was read, as follows:

Resolved, That Saturday, March 15, at 3 o'clock, afternoon, be fixed for paying tribute to the memory of Hon. William D. Kelley, late a member of the House of Representatives in the Fifty-first Congress from the State of Pennsylvania.

The resolution was adopted.

ORDER OF BUSINESS.

Mr. SPRINGER. I ask for the regular order.

PRINTING FOR THE COMMITTEE ON IRRIGATION.

Mr. RICHARDSON. Mr. Speaker, I desire to submit a report from the Committee on Printing, which is privileged under the rule. I ask the Clerk to read the resolution referred to the committee, and then the amendment recommended by the committee and the report.

The Clerk read as follows:

"*Resolved*, That the Select Committee on Irrigation of Arid Lands be authorized to have printed such papers and documents for the use of said committee as it may deem necessary in connection with the subjects considered by the committee during the present Congress."

Amend by adding the words at the close of the resolution: "*Provided*, The cost of said publications shall not exceed the sum of $500."

The committee have considered the House resolution introduced by Mr. VANDEVER, allowing the Select Committee on Irrigation of Arid Lands to have printed such papers and documents, for the use of said committee, as they may deem necessary in connection with subjects considered by the committee, and direct me [Mr. RICHARDSON] to report the same with the recommendation that it do pass, with an amendment which is herewith submitted, in the following words: "*Provided*, The cost of said publications shall not exceed the sum of $500."

The amendment was agreed to.

The resolution as amended was then adopted.

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

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. EZRA B. TAYLOR. I hope the gentleman from Illinois [Mr. SPRINGER] will withdraw his demand for the regular order, so as to give me an opportunity to introduce a resolution to have some printing done for the Committee on the Judiciary. The work is necessary and the consideration of the resolution will take but a moment.

Mr. SPRINGER. I withdraw the demand in order to allow the gentleman from Michigan [Mr. CUTCHEON] to ask for the adoption of the resolution which relates to the convenience of his committee and the facilitation of the business of the House.

The SPEAKER. The gentleman can not withdraw the demand in favor of any particular person.

Mr. SPRINGER. Then I withdraw it. I can renew it.

PRINTING FOR THE COMMITTEE ON THE JUDICIARY.

Mr. EZRA B. TAYLOR. I submit the resolution which I send to the Clerk's desk, and ask for its immediate consideration.

The resolution was read, as follows:

Resolved, That the Committee on the Judiciary be authorized to have printed and bound such papers and documents, for the use of the committee, as they may deem necessary in connection with the subjects considered by the committee during the present Congress.

Mr. SPRINGER. If that resolution is to be adopted, it should have the same proviso which has been attached to the resolution reported from the Committee on Printing this morning and just adopted, providing that the cost shall not exceed $500. That is the law.

Mr. EZRA B. TAYLOR. I accept that amendment.

The resolution as amended was adopted.

SITTINGS OF COMMITTEE ON MILITARY AFFAIRS.

Mr. CUTCHEON submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Military Affairs have leave to sit during the sessions of the House.

Mr. SPRINGER. I now call for the regular order.

CENSUS.

The SPEAKER laid before the House the following:

IN THE SENATE OF THE UNITED STATES, *February* 17, 1890.

Resolved, That the Senate disagree to the amendment of the House of Representatives to the bill (S. 1181) to require the Superintendent of Census to ascertain the number of people who own farms and homes and the amount of mortgage indebtedness thereon, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. HALE, Mr. DAVIS, and Mr. BERRY be the conferees on the part of the Senate.

Mr. DUNNELL. I move that the House insist on its amendment and agree to the conference asked by the Senate.

The motion was agreed to.

The SPEAKER. The Chair will announce later in the day the conferees on the part of the House.

OBSTRUCTIONS TO NAVIGATION IN THE MISSOURI RIVER.

The SPEAKER. The Chair lays before the House the joint resolution (S. R. 37) for the removal of obstructions to navigation in the Missouri River. This joint resolution has been returned from the Senate for the correction of some error.

Mr. TARSNEY. Mr. Speaker, this resolution has passed both Houses of Congress, but by an error in the enrollment certain words were omitted from the resolving clause. The Senate having requested the correction of the error, I offer the resolution which I send to the desk, and ask for its present consideration.

The Clerk read as follows:

Whereas the Senate has sent to the House of Representatives the following order, namely:

"*Ordered*, That the paper purporting to be a correct copy of Senate resolution 37, 'for the removal of obstructions to navigation in the Missouri River,' be returned to the House of Representatives with the request that said resolution shall be properly engrossed and returned to the Senate, the words '*by the Senate and House of Representatives of the United States in Congress assembled*' having been omitted in the engrossed copy as sent to the Senate;" and

Whereas the said joint resolution of the Senate was engrossed by Senate clerks and is presumed to be correct; and

Whereas the error of engrossment occurred in omitting the resolving clause of the substitute of the House for the said Senate joint resolution; and

Whereas the House has no control over the engrossment of Senate bills or joint resolutions: Therefore,

Resolved, That the Clerk be directed to insert the words "*by the Senate and House of Representatives of the United States of America in Congress assembled*" in the proper place in the said House substitute and return the same to the Senate.

The SPEAKER. The question is on the adoption of the resolution just read.

Mr. ALLEN, of Michigan. A parliamentary inquiry: Is this bill now in such a condition that an amendment may be offered to it?

The SPEAKER. It is not. The question is on the adoption of the resolution.

The resolution was adopted.

INDIAN AFFAIRS.

The SPEAKER laid before the House the following message of the President; which was read, and, with the accompanying papers, referred to the Committee on Indian Affairs, and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith a communication of 11th instant from the Secretary of the Interior, submitting a copy of a report from the Commissioner of Indian Affairs and accompanying draft of a bill to amend the first section of an act entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," approved February 8, 1887.

The matter is presented for the consideration and action of Congress.

BENJ. HARRISON.

EXECUTIVE MANSION, *February* 17, 1890.

ASSISTANT SECRETARY OF WAR.

The SPEAKER. The next business in order is "Senate bills substantially the same as House bills already favorably reported by a committee of the House." The Chair lays before the House the bill which will be read.

The Clerk read as follows:

A bill (S. 1359) providing for an Assistant Secretary of War.

Be it enacted, etc., That there shall be in the Department of War an Assistant Secretary of War, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $4,500 a year, payable monthly, and who shall perform such duties in the Department of War as shall be prescribed by the Secretary or may be required by law.

Mr. CUTCHEON. Mr. Speaker, this bill is almost identical in terms and is the same in substance as a bill already favorably reported——

Mr. HOLMAN. How is this bill entitled to present consideration?

The SPEAKER. Under the rule, as a "Senate bill substantially the same as a House bill already favorably reported by a committee of the House."

Mr. HOLMAN. It must be considered in Committee of the Whole House.

The SPEAKER. If that point is made it will be so considered.

Mr. KILGORE. That is the point I was about to make.

Mr. CUTCHEON. I move that the House resolve itself into Committee of the Whole for the consideration of this bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. BURROWS in the chair) and proceeded to the consideration of the bill (S. 1359) providing for an Assistant Secretary of War.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill the title of which the Clerk will read.

The Clerk read as follows:

A bill (S. 1359) providing for an Assistant Secretary of War.

The bill was read, as follows:

Be it enacted, etc., That there shall be in the Department of War an Assistant Secretary of War, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $4,500 a year, payable monthly, and who shall perform such duties in the Department of War as shall be prescribed by the Secretary or may be required by law.

Mr. CUTCHEON. Mr. Chairman, this bill is, in substance, almost in terms, the exact bill reported favorably from the Committee on Military Affairs by the unanimous action of that committee. The report upon the House bill is printed, and can be read if desired by any member.

Mr. MCADOO. I would like to have it read.

Mr. CUTCHEON. I will ask that the Clerk read the report accompanying the House bill.

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

The Committee on Military Affairs, to which was referred the bill (H. R. 475) "To establish the office of Assistant Secretary of War," have had the same under consideration, and would submit the following report:

This bill provides for the establishment of the office of Assistant Secretary of War, defines its duties and the mode of their assignment.

The Assistant Secretary will be appointed on the nomination of the President and confirmation of the Senate.

This legislation has been recommended by every Secretary of War for the last ten years. It is not expressly provided in the bill, but yet it is understood on all hands that the Assistant Secretary will be selected from civil life.

Within the past few years duties of a strictly civil nature have been multiplied upon the Secretary of War, while the construction of heavy ordnance and the proposed erection of seacoast defenses will add to the magnitude of his purely military functions.

The following memorandum will exhibit the extent and duties of the War Department as compared with other Departments of the Government, and the number of assistants provided:

"*Memoranda on a bill to create the office of Assistant Secretary of War.*

"The President, as constitutional chief of the Army, acts through his Secretary of War. The system contemplates not only a civil officer at the head of the War Department, but a civil direction of the military establishment.

"In addition to this control of the military establishment the Department, by virtue of legislation, is also responsible for the performance of a large number of strictly civil duties.

"The improvement of rivers and harbors, the supervision of the construction of bridges over navigable waters, the furnishing of evidence for pending pension claims, and other civil duties have become the larger part of the work of the Department.

"In the last four years one hundred and fifty-five acts were passed authorizing the construction of bridges over navigable waters. The duties of the Secretary of War thereunder include some of all the following: Approval of plans and locations, fixing rates of toll and of compensation to be paid by railroad

companies, and rules and conditions under which different companies may use the bridge, and the decision 'of all matters at issue' concerning which the parties fail to agree.

"Of the 1,624 clerks and employés of the Department, under the immediate direction of the Secretary of War at the seat of government, 718 are assigned to divisions whose duties are entirely civil, 323 are assigned to bureaus and divisions whose duties are mostly civil, and only 583 are assigned to bureaus or divisions pertaining directly to the maintenance of the military establishment.

Number of clerks employed in the different Executive Departments and number of assistant heads of each Department.

Department.	Clerks.	Assistants.	Department.	Clerks.	Assistants.
Interior	2,206	2	Navy	138	.....
Treasury	1,814	2	Agriculture	104	1
War	1,277	.....	State	39	3
Post-Office	157	3	Justice	48	3

"There are 11,134 civilians under employment at large by the War Department, exclusive of those employed in this city; 7,525 of these are not engaged in work relating to the military.

"The expenditures of the War Department were last year $46,654,121.74, of which only about one-half was for the maintenance of the military establishment.

"The heads of the different Bureaus of the Department are military officers without civil training or experience. There is only one civilian employé in the Department, except the Secretary, receiving a salary above $2,000 a year, and there are only 13 clerks of that grade.

"There are many combined questions of civil administration and law arising; but the Department has no civilian above the grade of clerk and no legal officer at all, as most of the other Departments have, to assist in their consideration.

"The Judge-Advocate-General's corps consists of officers trained in military law only.

"An Assistant Secretary is needed—

"First. To strengthen the civil influence in the Department; to assist in the civil direction of the military establishment, as constitutionally intended, and in the performance of the strictly civil duties of the Department enjoined upon it by law.

"Second. To preside over the Department in the temporary absence of the Secretary.

"The President is permitted by law to designate a general officer to act as Secretary of War in such a contingency. The custom is to designate the senior officer present. If it be the Major-General Commanding, he is called upon to pass on his own reports and recommendations. If it be a junior officer, he may be called upon to review the acts and reports of his superior officers. It can not always be the same officer, and never one familiar with the civil duties of the Department; and, as to the Army itself, the present system is calculated to produce irritation.

"Third. As a matter of economy.

"It has become impossible for the Secretary to perform the routine work devolving on him and still devote proper time to the larger administrative questions arising, careful attention to which is the greatest economy. There is at present no civilian assistant of sufficient authority to enable him to lawfully relieve the Secretary of the former by signing routine papers, etc., or to assist him in the latter.

"It were better even to employ an Assistant Secretary, if needs be, at the expense of dispensing with subordinates receiving equal salary.

"Every Secretary of War since 1880 has asked for the appointment of an assistant, either in his official reports to the President or before committees of Congress."

When it is remembered that during the last fiscal year there was appropriated, to be expended under the direction of the Secretary of War, the sum of $56,033,645.79, and that during the same period there was actually expended under his supervision the sum of $46,654,121.74, it will be readily realized that a very slight saving upon this vast sum will more than repay the small salary provided.

The committee recommend that the bill be amended by striking out the words "five thousand" before the word "dollars," in section 2, and inserting in lieu thereof the words "four thousand five hundred," and add to the section the words "payable monthly," and that, as so amended, the bill do pass.

Mr. CUTCHEON. Mr. Chairman, I do not know that I can add anything material to that which is embodied in the report, if gentlemen have listened to the language of the report.

This legislation has been recommended by every Secretary of War for the past ten years. The necessity for it has grown largely from the imposition of civil duties on the military department.

Mr. CANNON. Will the gentleman allow a suggestion just there?

Mr. CUTCHEON. Certainly.

Mr. CANNON. While I am in sympathy with this report and cooperated in the Forty-seventh Congress in making an appropriation for an Assistant Secretary of War and of the Navy, which appropriation was made for two years and no Assistant Secretary for either place ever appointed, I would be glad to know from the gentleman if the present Secretary of War recommends this legislation.

Mr. CUTCHEON. He does recommend it very strongly and desires it very much.

As I have stated, the necessity for it grows out of the imposition of civil duties upon the Secretary of War. In the first place, he has control of the expenditure of the large sums of money annually appropriated for the improvement of rivers and harbors. During the past four years we have enacted into law one hundred and fifty-five bills providing for the erection of bridges over navigable streams. By the terms of the bills themselves the execution of the provisions of them devolves upon the Secretary of War. He is required to pass upon many questions connected with the structures; for instance, as to their locality, the character of bridge to be built, the rates of toll, the mutual use of the bridges by various railroad companies, and other questions of that character. And so it is safe to say that out of the entire work committed to the Secretary of War by law more than one-half of it is of a purely civil character. To meet this greatly increased labor devolving upon him no provision of law has been made, although, as stated by the chairman of the Committee on Appropriations, the gentleman from Illinois, in the Forty-seventh Congress an appropriation was made in the legislative, executive, and judicial appropriation bill providing for the salary of an Assistant Secretary of War and of the Navy, and that appropriation was carried, I believe, for two years, but no legislation was ever had to make it effective. The necessity has grown constantly.

Mr. OATES. Let me ask the gentleman, is not this the only Department which has no assistant head?

Mr. CUTCHEON. No, sir; the Secretary of the Navy has no assistant; but while the Secretary of the Navy has under him less than one hundred clerks this Department has over fourteen hundred clerks employed in its different divisions. Another reason for the establishment of this office is this: Whenever the Secretary of War for any reason is absent from the office the duty of the position is devolved, under the existing practice, upon the senior officer of the staff who is present; that is to say, upon the General commanding the Army, upon the Chief of Engineers, upon the Adjutant-General, or some other of the military gentlemen connected with the War Department.

Mr. OATES. Is the salary $4,500 fixed by this bill the same as that paid to the other assistants?

Mr. CUTCHEON. Yes, sir; the same as in other Departments.

The result of this practice, to which I have just alluded, is this: That if the General commanding the Army becomes the Acting Secretary of War, he is called upon to pass upon his own acts and requisitions. If the General commanding the Army should happen to be absent, the duty devolves, as it frequently does, upon the senior brigadier-general, who is called upon to pass, not only upon his own acts, but upon those of his superior. Let me cite to you a case in point.

In the Fiftieth Congress the House referred to the Committee on Military Affairs a bill known as the coast-defense bill. I had charge of that bill in the committee. I forwarded it to the War Department for recommendation from that Department. It was referred by Mr. Endicott, Secretary of War, to General Benét, the Chief of Ordnance. He made an elaborate report upon it to the Secretary of War. But it so happened that upon the same day he became temporarily Acting Secretary of War, and, as Secretary of War, forwarded his own report to the Committee on Military Affairs with this indorsement:

Attention is respectfully called to the accompanying report of the Chief of Ordnance, in which I heartily concur.

And signed with his own name, that is to say, the individual who made the report. That is one of the incongruities and inconsistencies of the present system.

But, Mr. Chairman, unless some gentleman desires to ask some further question, I do not care to occupy further the time of the committee.

Mr. PEEL. Will the gentleman allow a question?

Mr. CUTCHEON. Certainly.

Mr. PEEL. Is this report unanimous from the Committee on Military Affairs?

Mr. CUTCHEON. I believe it is entirely unanimous.

Mr. BAKER. Let me ask the gentleman why the salary is reduced from $5,000, as proposed in the bill, to $4,500?

Mr. CUTCHEON. The object was to make it conform to the salaries of the other assistant secretaries in the other Departments.

Mr. BAKER. But I understand that this new secretary is to have much more extensive duties and more labor imposed upon him than the others.

Mr. CUTCHEON. The duties of the office will undoubtedly be very onerous, but on a comparison with the salaries paid to the other assistants we found that they received but $4,500, and we thought it better to make no discrimination between them.

Mr. ADAMS. Will the gentleman yield for a question?

Mr. CUTCHEON. With pleasure.

Mr. ADAMS. Does the gentleman know how many of the 1,400 clerks are employed on the work known as the improvement of rivers and harbors?

Mr. CUTCHEON. I can not answer the question exactly, but I presume that at least one-half of them are so employed, or, rather, one-half are employed on civil work.

Mr. ADAMS. In accordance with legislation already passed, a large amount of this work is to be done in that office.

Mr. CUTCHEON. That is true.

Mr. ADAMS. But, if the improvement of rivers and harbors were taken from the Secretary of War and intrusted to a board of public works, there would be no occasion for such legislation as this.

Mr. CUTCHEON. It would take away but one division. There would still remain a very large amount of civil work to be done in that Department.

Mr. ADAMS. Will the gentleman inform me if there is a bill pending for the purpose of establishing a board of public works or taking this work of improving rivers and harbors from the War Department?

Mr. CUTCHEON. I can not answer the gentleman's question. There is no such bill pending before my committee.

Mr. PETERS. Let me ask the gentleman a question.

Mr. CUTCHEON. Certainly.

Mr. PETERS. I wish to ask if it is not absolutely necessary, in

these bridge matters, to have an Army engineer to examine and pass upon them; and hence the Assistant Secretary of War, even if one should be appointed, would be of little service in the direction suggested by the gentleman, because he would have nothing to do with the subject.

Mr. CUTCHEON. No, sir; that is not true. He must act upon every case that comes before him, whether it be as an engineer upon matters relating to the construction of bridges or merely clerical matters involving questions of detail. In regard to executive action, that depends upon the absence of the Secretary, when the Assistant Secretary would assume control.

Mr. PETERS. But, as I understand it, the Secretary of War refers these to the engineer as to whether the bridges will interfere with navigation, and that is about all the executive action the Secretary of War is required to do in all these cases.

Mr. CUTCHEON. Upon these reports he is required to act. He has to approve the plan of the bridge; and that would be under the recommendation of the Chief of Engineers.

Mr. PETERS. Then the Assistant Secretary of War would be of no aid to him in that business.

Mr. CUTCHEON. Oh, no; it is not true. It would be the expectation of the Secretary of War to divide the duties, as they have done in other Departments of the Government, and assign a portion of the duties to the Assistant Secretary, so that the Secretary could confine his work to the more strictly military duties—that is, to the military establishment and matters in connection therewith.

Mr. PETERS. The query in my mind has been as to whether this duty could not be performed as well by an officer of the Army as it could be performed by any person taken from civil life.

Mr. CUTCHEON. I have already endeavored to point out——

The CHAIRMAN. The gentleman will be obliged to suspend.

Mr. PETERS. The trouble is that we can not hear what the gentleman states.

Mr. CUTCHEON. In the report of the committee the fact is pointed out that as to the entire War Department there is not a civilian above the grade of a $2,000 clerk, and there is no one who is competent, in the opinion of the Secretary of War, in the Army Department to fill that office. Therefore the duties devolve first upon one officer and then upon another and then upon another, and there is no continuity and no harmony in the action of these different officers. This bill is designed to create the office of Assistant Secretary of War of sufficient dignity and character to get a good civilian officer in the Department, and one who will always be present in the absence of the Secretary of War to discharge his duty.

Now, Mr. Chairman, unless some other gentleman desires to ask a question or debate the bill, I shall ask for a vote.

Mr. McADOO. Mr. Chairman, I do not think this officer is at all necessary in the War Department especially; and the gentleman is mistaken in assuming that the Army and Navy stand on the same footing. There is no proposition to expand the Army, and the people of this country do not wish and would not, in my opinion, allow any such extension. But in the Navy Department it is different. They are charged with the great problem of building ships and guns and increasing the Navy, and if an Assistant Secretary is needed it is much more necessary for the Navy Department than for the War Department.

The gentleman is entirely wrong when he tells the House that the Secretary of War and the Secretary of the Navy have no assistants. The Secretary of War has the Adjutant-General, the Inspector-General, the Quartermaster-General, and the Chief of Engineers, who stand in the same relation to the Secretary of War as the First, Second, and Third Assistants to the Postmaster-General.

Now, when the Secretary of War leaves the city there is no trouble in providing an officer to fill his place. He designates the General of the Army frequently; sometimes he designates the Quartermaster-General; sometimes the Adjutant-General (most of the time, I believe, the Adjutant-General). The Secretary of War could leave this city to-day for a month, and the affairs of that Department would run along just as easily as if he were present unless matters of great moment requiring his discretionary purpose arose. He has, besides, close to him his secretary and the chief clerk, who are civilians.

Mr. BLOUNT. I would like to ask the gentleman from New Jersey a question.

Mr. McADOO. Certainly; with pleasure.

Mr. BLOUNT. Would not the scarcity of army officers around the city of Washington somewhat interfere with the assignment spoken of by the gentleman? [Laughter].

Mr. McADOO. The gentleman suggests that the scarcity of army officers around the city of Washington might interfere with the public business in case the Secretary of War were called away. I do not think there is any danger of that. In fact I am sure of it. I think there are always enough officers here who would like to act as Secretary of War. The average army officer rather likes this place.

Mr. BRECKINRIDGE, of Kentucky. If not, you might fill up with the District militia, that you and my friend from Georgia are so anxious about. [Laughter.]

Mr. McADOO. My friend wants to entrap me into opposing his former bill for the District militia, in getting me to say that there are enough gold-laced officers, as the result of that law, about the city who could be made Assistant Secretary. I have been honorably discharged from the militia, so far as legislation is concerned. As a matter of fact, there is no public necessity for this officer. You are simply adding another officer to the great number of officers already in this and other Departments, and increasing the burden which now bears upon the tax-payers of this country. The gentleman from Michigan [Mr. CUTCHEON] also refers to the duties relative to a coast defense devolving upon that Department. There has not, so far as guns and defenses are concerned, been an appropriation made by Congress upon any scale similar to that which has been made for the Navy Department. The Navy Department is building guns and ships and shops and docks, but the War Department is not building guns to any extent. They are experimenting, it is true, on a small scale. The other establishment is colossal as compared to that of the Army establishment, and yet we have not created an Assistant Secretary of the Navy.

During the last four years this House has persistently objected to the appointment of an Assistant Secretary of the Navy. Your Army, in a country like this, is more liable to decrease than increase.

Now, Mr. Chairman, the gentleman talks about the question of rivers and harbors, and says, "Look at the tremendous lot of business they do respecting the rivers and harbors and bridges." Every bridge bill that comes up in this House, when it is referred to the War Department, goes to the Engineer Department. The question is whether the rivers shall be bridged, and the Chief of Engineers, and not the Assistant Secretary of War, would have to dispose of that question. The Assistant Secretary would have nothing to do with the question at all.

This great number of young and old men whom we have educated at the public expense, and whom you take care of from the time that they first enter West Point until the clod falls on their graves, can take charge of that character of work, unless, indeed, in both military establishments you can employ civilian heads to the various bureaus and restrict these men to what you educate them for, namely, commanding men and fighting ships. You do not need a man taken from civil life, at a salary of $4,500 a year, to get one who will be able to solve the question whether the bridge had sufficient elevation over the river or not, or as to whether the bridge should be built. If you appoint an Assistant Secretary he would be merely a secretary to the Secretary and nothing more than a clerk there.

Most of our great governmental establishments, in my opinion, are overofficered. If you keep on in this line it will come to this: that there will be questions of official precedence in the tremendous army of officers which will be almost like the question of caste in the East Indies, where under their system of Brahman religion, as I have stated before in this House, in discussing the naval establishment, one servant lays down a pot and it is contrary to his religion to take it up again, and you have to employ another servant to lift it up. I say that all these establishments are overofficered and are top-heavy. Now, the proposition is to add another officer, and I do not think any good argument has been made as to the necessity for such an officer. Let us carefully inspect these bills creating additional or new officers. Government is at best somewhat of a luxury.

In the naval establishment it appears there are only one hundred and thirty-eight clerks. I am surprised at that. I thought there were many more. It may be that the small number of civil clerks in that establishment arises from the fact that they employ the ensigns of the Navy to do clerical work. But this is not a question of clerks. These two establishments have at the heads of their bureaus military officers. Whether that is or is not a correct policy I do not care now to discuss. They are assistants as much as the second and third assistants of your other Cabinet officers, of your Secretary of the Interior, of your Secretary of the Treasury. They are military men, it is true, but your Secretary is a civilian head, and you will not increase the civilian influence in the War Department one iota by adding to it a $4,500 Assistant Secretary. Put the proper man at the head of your establishment, either the Navy or the Army. Let him be a man of ability and force of character and he will be all the civilian influence that you will need so far as his own office is concerned.

I therefore submit to my friend from Michigan, with some little experience in this House as a member of the Committee on Naval Affairs, a committee dealing with a kindred branch of the Government, that this bill should not pass; that we owe it to the people whom we represent, whenever we can honestly do so, to keep down instead of increasing the number of those to be added to the Governmental roster, to be paid salaries by the people, and that unless we radically change the present policy we should avail ourselves of the paid-for military and naval talent that now languishes without work, as it necessarily must in a Republic at profound peace with all the world. Let us utilize that talent or displace them entirely by civilians. Change your whole policy and hand over the administration of these military establishments to civilians if you will, but do not delude yourselves that an Assistant Secretary of War will really increase civilian influence any more than an additional clerk of the higher grade.

Mr. CUTCHEON. I ask unanimous consent that general debate be now considered as closed.

Mr. BOUTELLE. Mr. Chairman, I regret very much that this proposition has been introduced in a form to antagonize or draw invidious distinctions between the War Department and any other Department of the Government. It strikes me that that is not at all necessary or politic in the discussion of a measure of this kind. So far as I am concerned, I have no objection whatever to providing for an Assistant Secretary of War. It seems to me that the arguments in favor of providing such an officer do not rest entirely upon the number of clerks that may be employed in the Department, but are rather to be estimated by the character of the duties devolving upon the head of the Department. There has been a proposition before Congress prior to this for the appointment of an Assistant Secretary of the Navy, and I can conceive of very strong arguments that might be made in favor of providing such an officer.

But that has nothing whatever to do with this proposition, and I deprecate exceedingly having any antagonism excited between those Departments in connection with this subject. It seems to me that there are ample arguments in favor of providing an Assistant Secretary of War, arguments which can be based upon the merits of the situation, without attempting to strengthen them by asserting the lack of necessity for similar provision for any other Department of the Government. I do not understand that the assistant secretary of a Department is rendered necessary solely by the fact that a large number of clerks may be employed in that Department, because the control of the organization of clerks might be effected, possibly, by some other distribution of the subordinate positions in the Departments. The necessity for an assistant secretary of either of the great Departments, it strikes me, rests upon other and broader grounds.

The importance of having an officer of high rank, competent at all times to represent the Secretary in his absence, is one of the reasons that might be adduced in behalf of either of the principal Departments of the Government, but the stronger argument, it seems to me, in favor of appointing such an officer for either of the great Departments would be based upon the fact that the Secretary must necessarily devote himself in large measure to some of the general features of administration, and that in each of the bureaus there are special fields of administrative duty in which it is important at times, and in some of the Departments at all times, that there should be an officer to devote his time and attention, and possibly his expert judgment, to the administration of the peculiar field of duty to which he may be assigned.

I merely throw out these suggestions in deprecation of the drawing of invidious distinctions between the different Departments of the Government, and I suggest to my friend, the chairman of the Committee on Military Affairs, that he advocate this proposition upon its own merits, adducing such arguments as he deems strongest in its favor, without attempting to strengthen the case by belittling the responsibilities or the duties or the claims of either of the other Departments of the Government.

Mr. WASHINGTON. Mr. Chairman, I fail to recognize any reason which may be fairly urged for the passage of this bill or resolution save and except that it is another step in the direction of doing away with the apparent surplus in the Treasury, and I advise my friends on the other side not to go too rapidly at that work. If you give it all away in salaries to assistant secretaries and other employés—and we had a bill here yesterday to increase the number of employés in one bureau by thirty-two—when you come to the great legislation of this session, the passage of the Blair bill, and of the great coast-defense measure, and other schemes involving millions upon millions, you will find the surplus so far depleted that perhaps some of those cherished measures may fail.

Mr. Chairman, when we analyze the War Department we do not find any reason for the appointment of an Assistant Secretary. We find that next to the Secretary himself stands the General of the Army, a man without fear and without reproach, an officer who it is supposed should have at his fingers' ends at all times everything pertaining to the military department and the service of the Army. In the absence of the Secretary, I imagine no better or fitter assistant can be found to sign the name of the Secretary and to sanction the issuance of letters and documents than the General-in-Chief of the Army. If you look in the Congressional Directory you will find that in the War Department there are already thirteen distinct heads. At the head of each of these thirteen distinct bureaus there is an eminent army officer, discharging his duties to the satisfaction of the Department and of the country. No civil bureau is needed there. The questions of law or of fact which may arise as between the military and the civil functions of this Department can surely be settled in the proper law office of the War Department, that is, under the Judge-Advocate-General. Take, for instance, the Adjutant-General. He has a regularly organized bureau and a chief clerk. Take the Surgeon-General's Department. There is an eminent officer at its head with a regular corps of officers and a chief clerk. The same may be said in regard to the Quartermaster-General's Department, the Medical Department, the Subsistence Department, the Corps of Engineers. Every branch of the War Department is similarly organized and is efficient in the performance of its respective duties.

As to the suggestion which has been thrown out that it might be advisable to appoint this Assistant Secretary in order to give him control over the matter of rivers and harbors and the improvements upon them, I for one shall here and hereafter protest against any change being made in the management of the improvements of rivers and harbors. That matter is now lodged where it properly belongs—with the Engineer Department of the Army—and the able Chief of Engineers, with his subordinates in charge of each department of the Union, is satisfactorily expending the appropriations made by Congress.

If you cite, as has been cited in the way of argument for this bill, the fact that there are three Assistant Postmasters-General, it must be remembered that each of these assistants in the Post-Office Department is in charge of an entirely different class of work. The First Assistant Postmaster-General, as we all know on this side of the House, has, since the 4th day of last March, devoted his time and attention chiefly to the decapitation of subordinate Democratic postmasters throughout the country. In addition to that, he has in his charge the establishment of new offices, and there are other routine matters belonging properly to him. He has his chief clerk, a corps of assistants, and other subordinates.

The Second Assistant Postmaster-General occupies relatively to the Post-Office Department the position occupied by one of the heads of these different bureaus in the War Department where the position is filled by a military officer. The Second Assistant has charge of the letting of all the contracts for carrying on the mail service of the Union. He, too, has his corps of assistants. He is not called on to sign the name of the Postmaster-General to any paper, so far as I have ever known.

The fact that in one Department there may be one or two assistant secretaries performing duties particularly belonging to their respective jurisdictions should not be urged as a reason for the appointment of an Assistant Secretary of War. I fail to see in this measure anything except an effort to create a new office at an expense to the tax-payers of $4,500 a year, a sinecure, in fact. Therefore I shall vote against the bill.

Mr. SPINOLA. Mr. Chairman, the matter now under consideration by this Committee of the Whole has been before the last House as well as the present. The Committee on Military Affairs of the Fiftieth Congress gave this subject very careful consideration, as has the same committee of the present House. The bill now under consideration embodies the unanimous action of the Committee on Military Affairs. After carefully considering the subject, after looking at it in all its bearings, the committee came to the conclusion that such an officer is necessary to assist in the management of the War Department and to execute its duties with vigor.

Mr. LANHAM. My friend from New York will allow me to state that I voted against the bill in the committee.

Mr. SPINOLA. With perhaps a single exception, every member of the committee favored it. The bill was recommended by the last Secretary of War, who took the trouble personally to call upon me and assign the reasons why such a measure should pass. It was in consequence of his recommendation that I was won over to the support of the bill. I believe it a good measure and one which ought to be adopted by the House.

The CHAIRMAN. The gentleman from Michigan [Mr. CUTCHEON] asks unanimous consent that general debate upon this measure may now be closed.

Mr. BRECKINRIDGE, of Kentucky. Mr. Chairman, before that is done I desire to say a word.

Mr. CUTCHEON. I yield to the gentleman.

Mr. BRECKINRIDGE, of Kentucky. As I find I am not in accord with the majority of the gentlemen on this side who have spoken, I desire to say that after looking into this matter with very great care I think this office ought to be created and that this bill ought to pass. I believe it is in the interest of true economy; I think it tends toward an actual saving of expenditure. We spend now for the Army proper $25,000,000 in round numbers, and we expend under the supervision of the Engineer Corps and the Secretary of War from fifteen million to eighteen million dollars in carrying out what is known as the river and harbor bill; and we are constantly imposing upon the officers of the Army other labors of great importance, such as the construction of the Library building in Washington and various other matters involving large and increasing expenditures, as well as varied and important duties.

The Secretary of War necessarily holds his office for four years only. The military officers under him hold their positions by a life tenure. The civil influence that is possible in this great Department with its many bureaus consists, therefore, of that changing personal influence which successive Secretaries of War may bring to bear during their terms of office, and this is necessarily limited. Now, the administration of these great matters ought not to be in the hands altogether of persons who are not responsible to public opinion, who have no periodic accountability, whose tenure of office is fixed for life, whose mode of punishment is by a court-martial, whose only public opinion is that of their brother officers. What we need in that Department is a greater civil influence, a larger degree of the power of public opinion. We need that there should be constantly present some man who was not

at West Point, who is not under army influence, who is not controlled by army opinion, who will administer the law according to the judgment that lawyers and legislators put upon it, and that in the mere administration of the routine duties of the many bureaus and offices and branches among which the duties imposed are divided there should be constant civil supervision to give unity of purpose, economy of expenditure, and carefulness in details.

I have therefore been of the opinion, since my first term in Congress, that there should be an Assistant Secretary of the Navy Department as well as the War Department; that there should be somebody on confidential terms with the Secretaries of War and Navy whose tenure shall be like unto his, who shall be responsible to the Secretary and to the President and responsive to public opinion, whose efforts and influence will tend to make the Army more popular, to bring it into closer relations with the people of the country, who can not receive promotion in the Army or Navy, who can not have any professional rivalry, or be influenced by professional pride, or envy, or enmity, or tradition.

My friend from Tennessee [Mr. WASHINGTON] has pointed out how numerous and important are the bureaus in the War Department. These must report to some common officer, some superior, and receive orders and suspervision therefrom. The Army has its civil side, its merely pecuniary and routine administration. It has also, under the present militia laws, under the law creating agricultural and mechanical colleges, connection with the States and institutions of learning. These and other duties fall on the Secretary, and there is need of assistance to him. And this ought to be efficient, trustworthy, and able.

I believe it will lead to greater economy in the administration of every bureau. I believe it will give greater ease in the administration of public duty put upon those officers.

Let me illustrate. We have seen in this very District a matter I need not comment on, but simply state. We had a great public work, the aqueduct, conducted under an army officer of high character, credit, and skill. Probably a couple of million of dollars was absolutely wasted in that hole in the ground, and when that officer was called to an account he was punished by a court-martial with a punishment absolutely ludicrous. If he were innocent he should not have been punished at all. If he were guilty the punishment was absolutely trivial. It brought into disrepute the Army and corps of which he was an officer.

Now, an Assistant Secretary may not be able to stop this, but it is one step in the direction of bringing into that great Department a larger influence which comes not from the association of army life.

Almost all the men who are at the head of these great bureaus were educated at West Point. There is that natural comradeship between them which grows out of their long personal and their traditional association. I am not saying this in any spirit of criticism. I admire them. Many of them are my friends, with all whom I know I am on pleasant terms. It is an admirable institution. It provides admirable officers and soldiers. It is an institution which I will do all I can to improve. The Army officer is a fine specimen of man, but it is a somewhat narrow specimen of man, of one-sided education.

I therefore have come to the conclusion, Mr. Chairman, that, instead of it being an improper expenditure, it is a proper one. My opinion of economy is that it is often accomplished by an expenditure.

There is that scattereth, and yet increaseth; and there is that withholdeth more than is meet, but it tendeth to poverty.

And when you give to the head in the administrative department a proper and skillful officer, you thereby add to its efficiency so you may save in all branches under it much more than you expend. The man at the head of a great railroad corporation is not only paid a large salary, but is the chief of the best corps of assistants which can be devised; he is given the best chief of transportation, of maintenance of road and way, of freight, etc., because it has been ascertained by those who manage these great corporations the cheapest way is the best, and the best is to have the ablest and most efficient officers at the head of every department.

That is the way money is saved, and therefore I think this is one of those offices which should be created. It has been found to work well in the Interior Department. The Interior Department could not get along without assistant secretaries. It has been found to work well in the Post-Office Department, in the Treasury Department, and in the State Department.

I prefer the duties of Assistant Secretary should be assigned to him by the Secretary rather than there should be a divided responsibility and a divided head. It is better for the Secretary to be responsible for the Assistant Secretary and assign to him such duties as he may deem best. In other words, what seems now to be needed in this great Department is that the Secretary shall have a man appointed under his advice, responsible to him, sharing his views, imbued with his opinions, and there is no possible reform in any Department or bureau until that is done.

Mr. CUTCHEON. I now ask unanimous consent that the general debate be closed.

There was no objection.

The CHAIRMAN. The bill is now open for debate and amendment under the five-minute rule.

Mr. MCADOO. Mr. Chairman, I move to strike out the last word. I want to say a few words, and a few words only, in reply to my distinguished and eloquent friend from Kentucky [Mr. BRECKINRIDGE] who has just concluded his remarks. I am glad that he has in his eloquent and incisive language called the attention of the House to the abuse which took place in this District in regard to the action of an Army officer connected with the aqueduct tunnel, as well as to the inadequacy of the punishment meted out to that Army officer by a court-martial. But I wish to say to the gentleman that in my opinion the appointment of an Assistant Secretary of War would not correct such abuses as that.

If there had been an Assistant Secretary of War at the time that Congress appropriated that large sum of money for the construction of this tunnel, he could not have stopped the abuse and saved the money any more than the then Secretary. That money was lost through the gross carelessness and indifference of that Army officer, who was punished so slightly and inadequately—I might say farcically—by the court-martial, and whose punishment, in my judgment, should have been an absolute and swift dismissal for all time from the Army at the least; and I must confess that the inadequacy of the punishment in that case and their unfairness in others have brought courts-martial into contempt and suggest the need of substantial reforms. He would have had no more influence in that direction than had the Secretary of War. He could have had no control over the Engineer Corps of the Army, and could not have saved a single dollar of the amount lost to the people of the United States and the tax-payers of this District.

This proposed Assistant Secretary will be in fact, if the office is created, only a secretary to the Secretary. He will have no power, no influence in the direction supposed by the gentleman, and certainly will not be powerful enough to inject into that Department civil influences to interpose between the military ideas of the Department and the common people. He will be at the head of the Department in certain cases. He will be designated when the Secretary is absent to perfunctorily perform the duties of the office until his chief returns, but he will have no check upon the expenditures. And if we can not trust the men educated at West Point, and for whom it is difficult now to find work, although we pay them high salaries—if we can not trust these men to help the Secretary of War, then our whole military establishment is a failure.

Great stress is laid upon the fact that the War Department takes charge of river and harbor improvements and that the vast work thus imposed upon the Department requires the presence of this assistant. But the Assistant Secretary proposed here will not help the Secretary of War in the performance of this duty. The duties imposed by law upon the Secretary in this regard are scientific duties. They are technical. This Congress provides twenty, thirty, or as many more millions as it sees fit, to improve rivers and harbors. How they shall be improved is a scientific question, involving the highest questions of technical science, and properly go—so long as we are not allowed to have civilian experts—to the officers whom we have scientifically trained and educated at West Point. What will an Assistant Secretary of War at $4,500 a year do with such a question as the improvement of the Mississippi River? How would he consider it? What would be his attainments to enable him to consider it? It is a question of pure science, with which he has perhaps no acquaintance.

Again, Mr. Chairman, what check could he have on the extravagances in the improvement of that river; what control could he have over the civilian force employed upon the various flat-boats and the force at work upon the Lower Mississippi River? What can he do to save the Government from loss in such improvements? He could do nothing. He could be of no assistance. He can not help the Secretary of War at all in that respect, and is simply a fifth wheel to the coach. You are simply providing by such an enactment as this a high order of clerk and calling him "a secretary."

Take the various bureaus of the War Department and the assignment of the duties to them. There are, for instance, the rivers and harbors, which are under the control of the Chief of Engineers; the question of Army discipline, under the control of the Adjutant-General.

When my eloquent and distinguished friend from Kentucky brings in a bill to correct the errors of courts-martial and gives public opinion the right to remedy the findings of these courts, he will find no more stanch supporter of his measure than I. There is no question in my mind that their abuses have been great. They savor of the old days when a peer of England was tried for murder only before the bar of the House of Lords. They may be excused in war, but ought to be subject to strict civilian influence in times of peace.

Mr. BRECKINRIDGE, of Kentucky. If it will not interrupt the gentleman for a moment, let me say to the gentleman from New Jersey that my idea was by the appointment of this Assistant Secretary of War from civil life, the appointment of a man who had never been connected with the Army, entirely outside of the Department, a civilian who has not been educated at West Point and had nothing to do with the Army in the past—that by such an appointment, by never having anybody at the head of the Department but a civilian, we could gradually cure much of the evil of which complaint is so justly made now, and that there will gradually come, and with accelerating power, a

civil influence which will work out many of the beneficial results which we hope to achieve by such an appointment and which are so desirable.

Mr. MCADOO. Mr. Chairman, the civil powers already lodged in the Secretary are large, as they ought to be. Under the President and the law he is, and ought to be, absolute as between the people and their military servants. He is a member of the President's Cabinet; he sits with the other members in the Cabinet; he comes from the body of the people. You can not, in my opinion, increase his civilian influence by giving him an assistant clerk at $4,500 per annum. More radical measures will be needed if you wish to extend civilian influence in these Departments.

But, since the debate on this bill has been closed by consent of the committee, I will now move to strike out the enacting clause.

[Here the hammer fell.]

Mr. MCMILLIN. If the gentleman from New Jersey desires to proceed, I will yield him the floor if I can be recognized.

Mr. BLOUNT. I ask the gentleman to withdraw his motion for a moment, as I desire to be heard.

Mr. MCADOO. I will withdraw the motion for the purpose of allowing other gentlemen to be heard.

The CHAIRMAN. The hour of half past 1 o'clock having arrived, the time has come for the consideration of the special order fixed by the House, and the committee will now rise.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BURROWS reported that the Committee of the Whole House on the state of the Union, having had under consideration the bill creating an Assistant Secretary of War, had come to no resolution thereon.

ORDER OF BUSINESS.

The SPEAKER. The Chair lays before the House under the special order of the House, the bill (H. R. 6786) to organize the Territory of Oklahoma, to establish courts in the Indian Territory, and for other purposes.

The Chair recognizes the gentleman from Iowa [Mr. STRUBLE].

Mr. STRUBLE. Mr. Speaker, before proceeding with the special order——

Mr. MCMILLIN. Mr. Speaker, I have not yet had an opportunity to examine the bill, but from my general knowledge I think it is one of those bills which come under the rule requiring their first consideration in Committee of the Whole, and I make that point.

The SPEAKER. The Chair understands it to be a bill of that character.

Mr. SPRINGER. It is already in that committee.

Mr. HOOKER. If the points of order have not been reserved against the bill, I desire to reserve them now, before going into Committee of the Whole.

Mr. BLOUNT. I understand the gentleman from Tennessee has already made the point of order.

Mr. SPRINGER. But it is in Committee of the Whole now.

Mr. BLOUNT. But we are not.

The SPEAKER. The Chair has sustained the point of order made by the gentleman from Tennessee.

Mr. STRUBLE. I expected, Mr. Speaker, to make the motion to go into Committee of the Whole myself, but wish first to make a request to the House, which is, that the gentleman from Kansas [Mr. PERKINS] may have a few minutes' time to present a matter to the House.

Mr. HOOKER. I call for the regular order.

The SPEAKER. The Chair understands the gentleman from Kansas desires to present the case of the appropriation, which was passed over yesterday, in behalf of an Indian tribe.

Mr. HOOKER. I withdraw my objection.

Mr. MCMILLIN. Reserving the right to object, let us see first what it is.

The SPEAKER. The Chair will preserve the rights of gentlemen under these requests for unanimous consent, so that the House will have an opportunity of determining, after the question has been submitted, whether or not it presents an exigency such as will warrant granting the request the gentleman makes.

The Clerk read as follows:

A bill (S. 2652) for the relief of the Sioux Indians at Devil's Lake agency, North Dakota.

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

Mr. MCMILLIN. As I believe the amount is to be paid out of the Treasury, there being no Indian funds by which it is to be reimbursed, I will therefore have to object.

Mr. PERKINS. I would like permission to make a statement, subject to the right of objection.

The SPEAKER. Does the gentleman from Tennessee object to the request of the gentleman from Kansas?

Mr. MCMILLIN. I have no objection to his making a statement, but reserve the right to object to the consideration of the bill.

The SPEAKER. The right of objection will be reserved.

Mr. PERKINS. It is the same bill, except that it is a Senate bill, containing expressly the same subject-matter as that embraced in the House bill which was passed last evening. At the time the House bill was passed I did not know that the bill had passed the Senate; but I received a note from Senator DAWES this morning advising me of the fact that the Senate had already considered the matter and had passed the Senate bill. I found it in the file-room before it had reached our committee. I now ask that we pass the Senate bill, so that the House bill need not go any further. The Senate bill is a copy of the House bill we passed last evening, word for word the same, and they were prepared in the Indian Office. If this should pass here of course it avoids the necessity for the consideration of the House bill by the Senate.

Mr. MCMILLIN. I will have to insist upon the regular order, as this bill makes a charge upon the Treasury and there are no Indian funds out of which it is to be reimbursed.

CONFEREES.

The SPEAKER. The Chair announces as conferees on the part of the House on the disagreeing votes of the two Houses on the bill (S. 1181) to require the Superintendent of Census to ascertain what percentage of the people own their farms, and the number of farms under mortgage, and the amount thereof, which has already passed, Mr. DUNNELL, Mr. JOSEPH D. TAYLOR, and Mr. DOCKERY.

TEMPORARY GOVERNMENT FOR THE TERRITORY OF OKLAHOMA.

Mr. STRUBLE. Before making the motion that the House go into Committee of the Whole for the consideration of the bill providing a temporary government for the Territory of Oklahoma, I would like, if practicable, to know the wishes of my friend and colleague on the committee and his associates who may be in opposition to this bill in respect to the length of debate desired. I would like to curtail it as much as possible, with a view of disposing of the bill at an early hour; at the same time I desire to accord to all a reasonable opportunity for full discussion of the proposition.

Mr. BARNES. Mr. Speaker, this bill has been sprung upon us so unexpectedly that I have not been able to confer with the gentlemen opposed to it sufficiently to be able to see what time we would like to take. But if it could be concluded during the afternoon, if I find that it could be concluded at an earlier time, I will confer with the gentleman from Iowa.

Mr. STRUBLE. I would like to ask that general debate be closed in two hours.

Mr. BARNES. That would not be sufficient.

Mr. STRUBLE. How will three hours do?

Mr. BARNES. Three hours from this time will bring us to within half an hour of the usual time of adjournment.

Mr. STRUBLE. I move that the House do now resolve itself into Committee of the Whole for the purpose of considering the bill (S. 895) to provide a temporary government for the Territory of Oklahoma, and the House bill (6786) for the same purpose; and, pending that, I ask that general debate be limited to three hours.

Mr. BARNES. I hope the gentleman will not insist upon limiting the general debate to-day.

Mr. STRUBLE. On suggestion of members of the committee I would like to make it three hours and a half.

Mr. HOOKER. Make it five hours.

The question was taken on limiting debate to three hours and a half, and the Speaker announced that the ayes seemed to have it.

Mr. HOOKER and others. Division.

The House divided; and there were—ayes 74, noes 56.

Mr. BLAND. No quorum.

Mr. SPRINGER. Tellers.

Tellers were ordered.

The House again divided; and there were—ayes 111, noes 67.

So the motion to limit debate was agreed to.

The SPEAKER. The question is on agreeing to the motion to go into Committee of the Whole House for the purpose of considering the Senate bill. The Chair understands that this is a Senate bill.

Mr. STRUBLE. It is a Senate bill with a House amendment.

The SPEAKER. In the nature of a substitute.

The motion was agreed to; and accordingly the House resolved itself into Committee of the Whole, Mr. PAYSON in the chair.

The CHAIRMAN. The House is in Committee of the Whole under the special order for the purpose of considering a Senate bill the title of which the Clerk will read.

The Clerk read as follows:

A bill (S. 895) to provide a temporary government for the Territory of Oklahoma.

The CHAIRMAN. By order of the House general debate upon this bill has been limited to three hours and a half. The Clerk will read the bill.

Mr. STRUBLE. I ask unanimous consent to dispense with the reading of the bill.

Mr. HOOKER. I hope that will not be done.

The CHAIRMAN. Is there objection?

Mr. CHEADLE. I object.

Mr. HOOKER. I object, as a matter of course. I understand that it is a Senate bill that has been reported, and I ask that the Senate bill be read first and then the amendment.

The CHAIRMAN. The Senate bill will be read and then the proposed amendment.

The bill and substitute were read at length.

The CHAIRMAN. General debate is now in order upon this bill. The gentleman from Iowa [Mr. STRUBLE] is recognized.

[Mr. STRUBLE withholds his remarks for revision. See Appendix.]

Mr. STRUBLE. Mr. Chairman, I have taken up more time than I ought to occupy, because other gentlemen wish to speak, and while I have not finished my remarks I desire now to yield the floor, retaining such time as I have left.

The CHAIRMAN. The gentleman has seventeen minutes remaining.

Mr. STRUBLE. What was my allowance?

The CHAIRMAN. There was one hour and forty-five minutes allowed to each side. The gentleman from Iowa [Mr. STRUBLE] was recognized for an hour.

Mr. LANHAM. Will the gentleman from Iowa kindly yield me a few minutes of his time?

Mr. STRUBLE. I would be very glad to yield some time to my friend from Texas and I hope to be able to do so later, but other members of the Committee on the Territories desire to speak, and until they shall have used such time as they wish I would hardly be at liberty, especially now, to yield to the gentleman. I hope, however, to be able to do so in the progress of the debate.

Mr. ROGERS. Mr. Chairman, I rise to a parliamentary inquiry. Was there an arrangement as to the length of time general debate should run?

The CHAIRMAN. By order of the House, general debate upon this bill was limited to three hours and a half, the time to be equally divided, one hour and three-quarters to either side, the gentleman from Iowa [Mr. STRUBLE] to control the time for the bill and the gentleman from Georgia [Mr. BARNES] to control the time in opposition to the bill. The gentleman from Georgia [Mr. BARNES] will now be recognized if he desires.

Mr. BARNES. Mr. Chairman, I do not propose at this stage to occupy much of the time of the committee. I only propose now to indicate my general preference in favor of the bill of the Senate as it has come to us over the bill reported by the Committee on Territories as a substitute for it.

At the outset it may be well to explain what is the main difference between these two bills, because these bills, Mr. Chairman, differ not merely in language and phraseology, but also in policy. The Senate bill proposes to organize a Territory as one of the Territories of the United States, to be composed entirely of territory to which the United States has already acquired title.

The bill reported by the Committee on Territories of the House, and which is now offered as a substitute for the Senate bill, proposes not merely to form a Territory out of the lands to which we hold title, but also out of lands to which we may hereafter acquire title. That is the plain distinction between the two bills now under consideration before this committee. The committee will at once perceive, as I have stated, that there is not merely a difference in terms and phraseology between the two bills, but that there is also a difference as to the policy which ought to control the Government in the formation of Territories.

Now, Mr. Chairman, the bill which comes from the Senate proposes to form a Territory out of the lands which we acquired last year from the Creeks and Seminoles, constituting a tract of 1,887,000 acres, and also out of land as to the title of which there is really no dispute whatever, the tract of country commonly known as No Man's Land and over which no government at present exists. The Senate of the United States have sent to us a bill which says in effect: "The Government of the United States has an undisputed title over this 1,887,000 acres of land, which we acquired in the year 1888 from the Creeks and Seminoles by actual purchase, but it has also an absolute title to that vast tract of country known as No Man's Land or the Public Land Strip, and over this land, in which we have an undisputed title, we have a perfect right to establish a Territorial government."

The bill which comes from the committee of the House includes all the lands which I have attempted to describe and which are included in the Senate bill, but it goes further and includes all of the Indian Territory, saving and excepting that which is absolutely occupied by the five Indian tribes. That comprehends what was originally a part of the Choctaw and Chickasaw lands, to which I shall allude more particularly hereafter, and what is known as the Cherokee Outlet. Now, my objection to the House bill is based upon principle, and it is this: that no government ought to establish a Territorial government over a territory to which it has not already acquired an absolute and perfect title.

As long as the land is in dispute the government which you create over it is a government *in nubibus*. You erect a government on a shallow foundation; you erect a government without any foundation at all; you erect your superstructure without laying a basis upon which your superstructure shall rest, and therefore the superstructure ought to fall.

Now, Mr. Chairman, what is that land? In order to understand perfectly the titles to these lands I shall be compelled to go somewhat into their history, and I regret it very much, because although I have been over this subject a great deal on former occasions, I have not been over it at all lately, but I doubt not that, as I attempt to travel over it, the facts will recur to my mind. And in attempting to go over this ground I must first call attention to the fact that at different times different policies have controlled the Government in reference to its management of the affairs of the Indians and their lands.

At the outset of our history we treated this Indian question just as our British ancestors had treated it; we held that the Indians had no title to any land save the title which we call title by occupancy. That is, they held title as long as they were in the actual use and enjoyment of the land, and the Supreme Court of the United States recognized that sort of an Indian title. But when the Indian moved off that land, of course his title ceased, and it was held that the absolute title existed in the civilized Government which had discovered the land and exercised authority over it.

But the Indian title, as I have said, was, to use the language of the Supreme Court (I have not time now to refer to the decision), a title similar to that which a life-tenant holds and enjoys in the land which he occupies. That was the situation of things in the original settlement. When we acquired the territory of Louisiana the United States, for the first time, sought to inaugurate a new policy, a policy not perfected at the time, not then absolutely carried out.

That policy was to transfer all the Indians from the east side to the west side of the Mississippi River, and for the purpose of inducing the Indians to consent to be removed certain inducements were held out to them, the main inducement being that if they would agree to move to the west side of the river the character of the title by which they had held their lands up to that time should be changed and they should hold by a title if not identical with, very closely analogous to, the title by which the white man held his lands.

That was the inauguration of a new policy, and the Government commenced this practice under treaties which it made with the different Indian tribes from time to time, until finally in the year 1830 it enacted this policy into an absolute statute, by which it authorized the President of the United States to exchange lands on the west side of the Mississippi River for lands held by Indians on the east side of the river; and as an inducement to the Indians to make the exchange it was provided that when they went on the west side of the river they should hold their land by patent or grant from the Government, and not by a mere title of occupancy, as they had hitherto held their lands under decision of the Supreme Court.

That decision is to be found in the opinion delivered by Chief-Justice Marshall, in 8 Wheaton, 574. The nature and character of this title can be more fully seen by reference to a decision of the same court in 19 Wallace, 503, in the case of The United States *vs.* Cooll. By statute of 1830 the United States agreed to give them a title by patent to the lands to which they removed on the west side of the Mississippi River.

A gentleman asks me whether I can refer to the precise language of that statute. If I should undertake to do so it would break the thread of my remarks. I could easily do so, because I am familiar with this subject; and I know that what I say is not merely substantially correct, but I believe almost literally so. I will incorporate it in my printed remarks, and here it is. It is found in 4 Statutes at Large, page 411. This was an act entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi." The third section reads:

> That in the making of any such exchange or exchanges it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made that the United States will forever secure and guaranty to them, and their heirs or successors, the country so exchanged with them; and if they prefer it that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

The statute of 1830 absolutely provided that by an exchange of lands held on the east side of the Mississippi River for those on the west side the Indians could acquire in the latter an absolute title, qualified only by the provision that if the tribe became extinct or abandoned the land should revert to the United States, their previous title having been decided by the courts to be simply a title by occupancy.

In pursuance of that policy, Mr. Chairman, what is known as the Indian Territory was originally organized, and it was assigned to five tribes, known as the Cherokees (occupying originally a large extent of territory in North and South Carolina, Georgia, Alabama, and Tennessee), the Creeks, the Seminoles (the latter being originally but a branch of the Creeks who had migrated to Florida), the Choctaws, and Chickasaws.

Those five tribes, under the provisions of various treaties, went from the east side of the Mississippi River to the west. There was an absolute guaranty; the honor, the good faith, the solemn obligation of this Government was pledged; this Government, which boasts itself as being in the front rank of civilization, by solemn obligation bound itself that if these people would exchange their lands on the east side of the river for lands on the west side—this great Government, I hope as honest as it is great, solemnly pledged itself that over their land and over their territory until they gave their consent no State or Territorial government should ever be placed.

Mr. HILL. I would like to inquire, for information simply, in what way that guaranty was given?

Mr. BARNES. It was given in solemn treaty, in solemn obligations. The first treaty containing this guaranty was made with the Cherokees as early as 1828. The Government continued to make treaties with the Cherokees in 1833 and 1835. On the 6th of May, 1828, a treaty was made, another in 1833; a third was made in the State of Georgia in 1835, and the guaranty to these people was a home that should never in all future time be embarrassed by having extended around it the lines or placed over it the jurisdiction of a Territory or State, nor be pressed upon by the extension in any way of any of the limits of any existing State or Territory. The treaty of 1835 can be found in Revision of Indian Treaties, page 65. By the fifth article of that treaty the United States agreed that the lands ceded shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory. Similar provisions are found in all the treaties with the five civilized tribes.

There was the obligation; that was the extent of it. It was binding on this Government, and this Government in honor bound, however great its power, should faithfully keep that obligation with these defenseless people. Now, that was the character of the obligation; that was the inducement under which these people went there. Under General Jackson's administration agents went and appealed to these people to go, and they went under the solemn, plighted faith of this Government that this obligation would be performed.

I admit that times have changed. We modified these treaties; we modified them with the consent of these people in 1866. In the course and progress of time it was ascertained that there was more land there than those Indians could well occupy; and the Government then saw fit to adopt another policy, which was to locate other Indian tribes in the western part of the Territory. Under treaties of 1866, to be found in the volume now before me, the Indians consented that a certain part of that land might be settled by friendly Indians and also in certain localities by freedmen; but they never consented at that time to the settlement of this land by white men.

That was the situation; that was the condition of things. That was the only change. The only modification of the policy previously adopted was that, instead of the land being confined to the five original tribes, other tribes might be located thereon. That was the situation; that was the modification. There have been two modifications since, which I think exist in accordance with treaty. The land which is known as the Choctaw and Chickasaw section, which I now point out on the map—this land in the southern part of the Territory, west of the ninety-eighth degree of longitude—was in 1855 leased by the Government to certain Indian tribes as a permanent home. Leased as a permanent home. Mark the language; that is the language of the treaty.

It may appear somewhat a contradiction in terms to say that a lease should be made and at the same time that this lease should be of a permanent home. But there was a provision in the treaty of 1855 that it was to be confined to Indians only and to those Indians. In 1866 that lease was converted into an absolute purchase, but it has nevertheless been held by the Government that the trust which originally attached to those lands, by which the occupancy of them was limited to Indians and freedmen, still continues.

In support of that position I may read what Mr. Carl Schurz, then Secretary of the Interior, said in passing on this question:

> By these treaties title was guarantied to the several tribes, and it was provided that the lands should never be included within the territorial limits or jurisdiction of any State or Territory, but should remain subject to the intercourse laws, which laws have, as before stated, continued in force in all parts of the Territory to the present time.
>
> The title acquired by the Government by the treaties of 1866 was secured in pursuance and furtherance of the same purpose of Indian settlement which is the foundation of the original scheme. That purpose was the removal of Indian tribes from the limits of the political State and Territorial organizations and their permanent location upon other lands sufficient for the needs of each tribe. These lands being ample in area for the purpose, it has become a settled policy to locate other tribes thereon as fast as arrangements can be made, and provisions have been constantly made by treaties, agreements, and acts of Congress to effect these objects. The purpose is expressly declared in the said treaties. The cessions of the Creeks and Seminoles are stated to have been made "in compliance with the desire of the United States to locate other Indians and freedmen thereon." These words must be held to create a trust equivalent to what would have been imposed had the language been "for the purpose of locating Indians and freedmen thereon." The lands ceded by the Choctaws and Chickasaws were by article 9 of the treaty of June 22, 1855, leased to the United States * * * for the permanent settlement of the Wichita and such other tribes or bands of Indians as the Government may desire to locate thereon. The treaty of 1866 substituted a direct purchase for the lease, but did not extinguish or alter the trust.

The point is the Government held, by the treaty of 1866, the lands originally leased as a permanent home for this people; that it became the absolute property of the Government in 1866, but subject to a trust. There was a trust founded which limited its occupancy to friendly Indians and freedmen. All that land in the southern part of the Territory west of the ninety-eighth degree of longitude proposed to be put under the proposed bill was ceded by the Choctaws and Chickasaws, subject to this trust.

So far as the land occupied by the Cherokees is concerned there has been no change made since the treaty of 1866. But the sixteenth article of the treaty is in these words:

> The United States may settle friendly Indians in any part of the Cherokee country west of 96°, to be taken in a compact form in quantity not exceeding 160 acres for each member of each of said tribes thus to be settled, the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee-simple to each of said tribes, to be held in common or by their members in severalty, as the United States may decide.
>
> Said lands thus disposed of to be paid for to the Cherokee Nation at such price as may be agreed on between said parties in interest, subject to the approval of the President; and if they should not agree, then the price to be fixed by the President.
>
> The Cherokee Nation to retain the right of possession of and jurisdiction over all of said country west of 96° of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.

That language is as clear and indisputable as ever put in any treaty between any two Governments. There can be no mistake about it. It recognizes, in terms absolute, positive, direct, without qualification, that fee-simple title existed in this people, because under the terms of the treaty, when they conveyed lands to any tribe the Government was allowed to put on the territory they were to give this people a fee-simple title, and, of course, they could not give what they did not have. That is an argument no lawyer can dispute. Whatever may have been the character of title to this Outlet before that time the Government is estopped by the treaty of 1866.

Further than that it is clear and explicit the Government was to exercise no jurisdiction over this land until the land was occupied by friendly Indians, and the jurisdiction was retained by the Cherokee Indians until this time.

Now, the difference between the Senate and House bill is this: That the Senate bill says we shall exercise political jurisdiction over no territory save that to which we have acquired title, to which the title has been extinguished. That is what it says in terms.

What was this land? The only land open to white settlement since 1866 is the land to which we acquired title, which was Oklahoma proper. We acquired title to that land under the provisions of the treaty made with this people in 1888, amounting to millions of acres.

Mr. SPRINGER. The Senate bill does not extend jurisdiction over all that land. I will say to the gentleman, if he will look at this map he will see that we purchased between this river and extending to the one hundredth meridian over six million acres of land.

Mr. BARNES. I am obliged to my friend for his interruption. It shows the Senate has kept within bounds. They might have gone further, but they determined to be right and they did not attempt to exercise jurisdiction over land to which they had no clear title. They have confined themselves to the exercise of political authority over that to which we had a clear and indisputable title.

Mr. SPRINGER. Will the gentleman allow a question? If the Government has given any of these Indian tribes now in the limits of this Territory a title in fee-simple to the lands, would that title prohibit the Government from exercising political jurisdiction over the land? Suppose, for instance, the Government had given a title to you as an individual, does that deprive the Government of its right of exercising jurisdiction?

Mr. BARNES. I understand what the gentleman means. That is an entirely different question. If the Government had entered into a compact or obligation with me by which it solemnly assumed that it would not do it, the Government would be bound by that contract or compact.

Mr. SPRINGER. The Government entered into no such contract west of the ninety-eighth meridian——

Mr. BARNES. But I say the Government has done so.

Mr. SPRINGER. Let me conclude. I say it has entered into no such contract west of the ninety-eighth meridian, and therefore this obligation of which the gentleman speaks does not exist there.

Mr. BARNES. I say the Government has, and that is the difference between the gentleman and myself. If the Government made a contract with me as it made with the Indians, by which it bound itself not to exercise authority, the Government would be bound by that contract.

Mr. SPRINGER. But they never did that.

Mr. BARNES. Well, I differ with the gentleman.

Mr. SPRINGER. Let me say——

Mr. BARNES. I will not yield any further.

Mr. SPRINGER. No; because you are wrong in stating that and you do not want to be corrected.

Mr. BARNES. Well, the gentleman will have his own time, and he can state it and correct it in his own way. I have given this subject a good deal of attention, and I think I know what I am talking about.

Mr. SPRINGER. Well, I hope the gentleman will state it.

Mr. BARNES. Oh, I know the gentleman has tried to convince me, in season and out of season.

Mr. HEARD. Will the gentleman from Georgia permit me a moment? The point I desire him to make clear is this: These Indians settled west of that line. Now, did the Government make a contract with them to the effect that Territorial government or State government should never be extended over them as over the five civilized tribes?

Mr. BARNES. I do not know that it did, but it made it with the five tribes.

Mr. HEARD. I know that.

Mr. BARNES. Yes; just wait; but the original land covered by that contract extended over the whole Indian Territory, and included this

property of which the gentleman speaks, and you can not alter this except in so far as may be done by treaties.

Now, the difference between my friend from Illinois [Mr. SPRINGER] and myself is this. The gentleman from Illinois wants to know if the Government can go on and exercise jurisdiction over my land or over land to which I have a title; and, that being the case, I say the Government most assuredly can do this. But if the Government makes a contract with me, or a compact, or obligation, by which it agrees not to do it, then it has no right to do it, and I say that it can not do it. In other words, Mr. Chairman, no sovereignty, I do not care how high it is or how exalted, how supreme it may be, can break its contracts. I assert the principle. I say boldly that there is no such thing in sovereignty, even the highest sovereignty in any government, which permits it to break its agreements. And I say, Mr. Chairman, with all solemn reverence, that if Omnipotence itself makes a contract it can not break it. If Omnipotence sought to break a contract into which it had entered, it would have to abdicate the moral throne of the universe before it could do such a thing.

I said, Mr. Chairman, and I repeat it, that no sovereignty can make a contract and break it, I do not care how high or how exalted or supreme it may be. If it made a contract with me that it would not exercise political jurisdiction over me until it got my consent to do it, it must wait until it gets my consent before undertaking to exercise that jurisdiction, and I repeat, with all due reverence, that Omnipotence itself can not make a covenant with His people and break it without abdicating the moral control of the universe.

Mr. HILL. I would like to ask another question, if permitted.

Mr. BARNES. I can not stop now, for I am about through.

Now, I said at the outset that this was with me simply a question of preference as between two bills, and that is all there is of it. The Senate bill comes to us here and proposes that we shall organize a Territorial government out of lands to which we have already acquired title. That is the result of their conclusion. The House bill proposes to go further, and to organize a Territorial government not only out of lands to which we have already acquired title, but also out of other lands outside and independent of it, to which we have not acquired title. It was said by those gentlemen, and is also said by those who advocate this bill, that they did not propose to exert or exercise the power which this political jurisdiction gives now.

But, Mr. Chairman, it would place these people over whom this political jurisdiction is asserted, if not exercised, in a situation where they are no longer free to exercise the right of entering into another contract with you as a free people, as a free tribe or nation, call them as you will. It proposes to take an unfair advantage of them by placing them in a situation by which they can not obtain or acquire for that which belongs to them what a white man placed under similar circumstances would have the right to acquire or obtain.

I do not believe the bill is founded in justice; I do not believe it is founded in good faith; and for these reasons, regardless of what may be the fate or consequences attending these bills, or either of them, I shall oppose it and continue to oppose it to the bitter end.

MESSAGE FROM THE PRESIDENT.

The committee informally rose; and Mr. BAKER having taken the chair as Speaker *pro tempore*, a message from the President was received, by Mr. PRUDEN, one of his secretaries.

The secretary also announced the approval of the act (H. R. 584) to modify existing laws relating to duties and imports and the collection of the revenue.

TEMPORARY GOVERNMENT FOR OKLAHOMA.

The Committee of the Whole resumed its session.

Mr. STRUBLE. I now yield ten minutes to my colleague from Missouri [Mr. MANSUR].

Mr. MANSUR. Mr. Chairman, I believe, sir, that a very large majority of this committee admit, as freely as the gentleman from Georgia can claim for himself, a desire on their part to do nothing in the way of injury whatever to any Indian tribe located in this Territory; and, sir, it is the judgment of probably every member of that committee, except the gentleman from Georgia himself, that beyond all shadow of doubt, that beyond all possibility of difference or of twisting or tergiversation of any kind, the language of this bill has absolutely reserved to every one of the five civilized tribes every right guarantied to them by their respective treaties with the United States Government.

I repeat, let there be no misunderstanding on the part of my friend from Georgia on that. I do say that, notwithstanding the ability, the devotion, and the chivalry of character with which my friend from Georgia [Mr. BARNES] takes up the cudgel in behalf of this inferior race, it is the opinion of every colleague of his on the committee that this measure in no wise trenches upon any of the rights of the Indians. Let it be remembered by every gentleman here that there were originally five civilized tribes who were located permanently upon home reservations in what is known as the Indian Territory, and let it also be remembered that at that time the Indian Territory was the extreme southwestern corner of our country.

All south of this colored line [indicating on the map] was a foreign country; all west of this line of the Territory was a foreign country; south of the first line I call attention to was known as Texas, afterwards incorporated into the Union; west of that other line was Mexico, a large part of which we afterwards acquired by treaties made with Mexico, known as the Gadsden and other treaties.

Now, these five civilized tribes, so called, originally occupied all this Indian Territory. We have since, beyond all shadow of a doubt—mark that language—beyond all shadow of doubt, we have purchased and paid for and by treaty rights and stipulations have secured the interest and title of four of these civilized tribes to all lands west of their home reservations. The Seminoles and the Creeks have released all but their home reservations.

Remember also that two of these others, the Choctaw and Chickasaw Nations, own the whole of their lands together. For purposes of their own, they have agreed that the Choctaws should live on the east part and the Chickasaws on the west, and they have agreed on a dividing line; but the title to their land is in common. Remember also that the Choctaws and Chickasaws have sold to the Federal Government all their lands west of this line for the location of friendly Indians and freedmen. So that, so far as they are concerned, they have parted, for value, with everything except their home reservations.

There being five tribes, this disposes of the interests of four of them. The contention is alone over the western outlet of the Cherokees, which is a strip composed of 6,022,000 acres. Practically all the trouble for years has come from the determination of the Cherokees to hold these lands.

Understand, gentlemen of the House, that our committee, after careful investigation of this matter, have reached this conclusion: Originally all these five civilized tribes had two kinds of claim to these lands: one was a home reservation, so called, and the other was a western outlet.

Their title and interest in these two different classes of lands are as different as day is from darkness. The line can be drawn readily and distinctly by any lawyer that will prepare himself, and by a careful reading of these treaties he will ascertain that their right to these western outlets was intended simply to be a roaming right to hunt for game.

So far as this bill is concerned, let it be understood also, beyond the shadow of a doubt, that all delegations before the Committee on Territories from every one of the five civilized tribes have, except the Seminoles, admitted, as they were forced to do, that by the terms of their treaties the Federal Government had the right to establish courts whenever the Government saw fit to do so, one or more, over their home reservations as well as over the lands of their western outlet. For twenty-four years the Government has not exercised that right.

Now the Government sees the necessity for these courts because there are over a quarter of a million of people in that region, and there are at most in this number not exceeding 60,000 or 70,000 Indians. It has become a territory of refuge for every robber, vandal, thief, embezzler, and escaped villain, as well as of a depraved class of women. They are scattered all over that country. Hence in many localities there are nothing but the most depraved portions of the white race. We are asserting what our friend knows—and if he does not know it he ought to know it, or must know it if he has read the bill, because he has not favored us in the committee with much of his presence—that so far as the five civilized tribes are concerned this bill simply creates courts and gives them jurisdiction under the treaties coextensive with their several home reservations. It merely creates the courts, and there is no attempt in this bill to put a Territorial government over these people. We expressly state that we recognize that is one of their reserved rights. Coming down to the treaties of 1866 made with each of these five tribes, the Government made provision in each of said treaties for the creation of Federal courts and to have the right to establish courts over them; but, as I said before, the Government has never exercised that right until last year. A little police court was established, which was a very poor police court at that.

Mr. PICKLER. Does that include the Cherokee Strip?

Mr. MANSUR. No, sir.

Mr. PICKLER. I mean the right to establish courts.

Mr. MANSUR. Yes, sir. I repeat, the main contention left in the Territory is over the Cherokee Outlet; because the Choctaws and Chickasaws admit they have parted with all the western lands for certain purposes, and therefore their rights under their treaty have vanished.

Mr. STRUBLE. But you remember that they absolutely conceded we were qualified to establish courts under their treaty.

Mr. MANSUR. Yes; we understand that. The Creeks and the Seminoles have parted with theirs, have conveyed by treaty agreements and received their compensation, and there is nothing left in the way of a dispute over the lands embraced in the bill except the difference of opinion prevailing between the Cherokees and the Federal Government over their western outlet; and as to that it is the conviction of a large number of members of the committee, as well as of a very large number of gentlemen at the other end of this building and throughout the West, that the Cherokees never had any title to their western outlet except the right to use it as an easement to hunt upon and to travel over to the great plains of the West. This, I repeat, can be made so plain that no one who will take the trouble to read the treaties and authorities upon the subject can entertain a doubt. Let us consider them.

The pertinent stipulations of the various treaties now in force with the five civilized nations on the subject of courts and laws are as follows:

CHOCTAWS AND CHICKASAWS.

Treaty, 1866.

ART. 7. The Choctaws and Chickasaws agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of persons and property within the Indian Territory: *Provided, however*, Such legislation shall not in any wise interfere with or annul their present tribal organization, or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs of the Choctaw and Chickasaw Nations respectively.

ART. 10. The United States reaffirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw Nations entered into prior to the late rebellion, and in force at that time, not inconsistent herewith. * * *

SEMINOLES.

Treaty, 1866.

ART. 7. The Seminole Nation agrees to such legislation as Congress and the President may deem necessary for the better administration of the rights of persons and property within the Indian Territory: *Provided, however*, That said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, or customs.

7. The Seminoles also agree that a court or courts may be established in said Territory, with such jurisdiction and organized in such manner as Congress may by law provide.

ART. 9. [Reaffirms all treaty obligations not inconsistent herewith.]

CREEKS.

Treaty, 1866.

ART. 10. The Creeks agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of persons and property within the Indian Territory: *Provided, however*, The said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs. * * *

7. The Creeks also agree that a court or courts may be established in said territory, with such jurisdiction and organized in such manner as Congress may by law provide.

ART. 12. [Reaffirms treaty obligations not inconsistent herewith.]

ART. 14. [Rescinds and annuls all treaties inconsistent with any of the articles or provisions of this treaty.]

CREEKS AND SEMINOLES.

Treaty, 1856.

ART. 15. So far as may be compatible with the Constitution of the United States and the laws made in pursuance thereof, regulating trade and intercourse with the Indian tribes, the Creeks and Seminoles shall be secured in the unrestricted right of self-government and full jurisdiction over persons and property within their respective limits; excepting, however, all white persons, with their property, who are not by adoption or otherwise members of either the Creek or Seminole tribe; and all persons not being members of either tribe found within their limits shall be considered intruders, and be removed from and kept out of the same by the United States agents for said tribes, respectively (assisted, if necessary, by the military), with the following exceptions, namely: Such individuals, with their families, as may be in the employment of the Government of the United States; all persons peaceably traveling or temporarily sojourning in the country, or trading therein under license from the proper authority of the United States; and such persons as may be permitted by the Creeks or Seminoles, with the assent of the proper authorities of the United States, to reside within their respective limits without becoming members of either of said tribes.

ART. 4. The United States hereby solemnly agree and bind themselves that no State or Territory shall ever pass laws for the government of the Creek or Seminole tribe of Indians, and that no portion of either of the tracts of country defined in the first and second articles of this agreement shall ever be embraced or included within or annexed to any Territory or State; nor shall either, or any part of either, ever be erected into a Territory without the full and free consent of the legislative authority of the tribe owning the same.

[This section must be read in connection with article 15 of the same treaty and article 7 of the treaty of 1866, which modify this. The present effect of the stipulations, I apprehend, is well expressed in article 7 of the latest treaty.]

CHEROKEE NATION.

Treaty, 1866.

ART. 13. The Cherokees also agree that a court or courts may be established by the United States in said Territory with such jurisdiction and organized in such manner as may be prescribed by law: *Provided*, That the judicial tribunals of the nation shall be allowed to retain exclusive jurisdiction in all civil and criminal cases arising within their country in which members of the nation by nativity or adoption shall be the only parties, or where the cause of action shall arise in the Cherokee Nation, except as otherwise provided in this treaty.

ART. 7. The United States court to be created in the Indian Territory * * * shall have exclusive original jurisdiction of all causes, civil and criminal, wherein an inhabitant of the district hereinbefore described (see Art. 4) shall be a party, and where an inhabitant outside of said district in the Cherokee Nation shall be the other party.

ART. 31. All provisions of treaties heretofore ratified and in force and not inconsistent with the provisions of this treaty are hereby reaffirmed.

Treaty, 1835.

ART. 4. The United States also stipulate and agree to extinguish for the benefit of the Cherokees the titles to the reservations within their country [the home tract] made in the Osage treaty of 1825 to certain half-breeds [Osages; * * * owned by Osages under a prior treaty, and therefore excepted from the Cherokee grant by a stipulation in the treaty of 1833, in the recitals of that treaty. (See lines 2666–2670, Revision of Treaties.)]

ART. 5. The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time without their consent be included within the territorial limits or jurisdiction of any State or Territory. But they shall secure to the Cherokee Nation the right by their national councils to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people or such persons as have connected themselves with them: *Provided, always*, That they shall not be inconsistent with the Constitution of the United States and such acts of Congress as have been or may be passed regulating trade and intercourse with the Indians; and also that they shall not be considered as extending to such citizens and Army of the United States as may travel or reside in the Indian country by permission according to the laws and regulations established by the Government of the same.

CHEROKEE STRIP OR OUTLET.

Since the purchase and extinguishment by the United States of the title of the Creek and of the Seminole Indians to the western half of their lands in the Indian Territory, a vital point to attain in the opening up of all the lands remaining in that Territory, save and except the lands of the home reservations of the five civilized tribes, is for the Government to obtain the sole ownership and control of the lands in the Cherokee Strip or Outlet. This strip originally extended from the ninety-sixth to the hundredth degree of longitude and was about 60 miles wide from north to south. It contained 6,574,135 acres, which has since been reduced to 6,022,244 acres by the location on the eastern end of the outlet of the Indian tribes of Nez Percés, Poncas, Otoes and Missourias, Pawnees, Osages, and Kansas.

Commencing with the treaty of Hopewell, of November 28, 1785, and ending with the supplemental article to the treaty at Washington of July 19, 1866, which article was concluded and proclaimed June 10, 1868, there have been twenty treaties, elucidations, and supplementary articles to treaties made and ratified between the United States and the Cherokee tribe of Indians.

The Cherokees in their eastern homes possessed and occupied lands in North Carolina, Georgia, Tennessee, and South Carolina, and in their various attempts to stem the tide of the white man's civilization, which was surrounding and shoving them to the westward, had made prior to the treaty of the Cherokee agency of July 8, 1817, twelve treaties with the United States, in none of which are to be found any statements or provisions looking to their removal west of the Mississippi or to the possession of lands in the western country.

In the treaty last referred to, which was negotiated for the United States by General Jackson, General Meriwether, and Governor McMinn, of Tennessee, with the tribe, it is stated in the preamble substantially that in the fall of 1808 a deputation of the Cherokees went to Washington and informed the President that the nation was divided in sentiment, a part desiring to remain in the country they then occupied and engage in the pursuits of agriculture and civilized life and begin the establishment of fixed laws and a regular government, while a part desired to continue the hunter life; and as game was scarce in their country they wished to remove west across the Mississippi River on vacant lands of the United States; that the President, after maturely considering the petitions of both parties, on January 9, 1809, answered the petitioners substantially as follows: "That the United States as friends of both parties desired to satisfy their wishes. Those who remained in the East to be assured of aid and assistance by the United States and those who wish to remove West are permitted to send an exploring party to reconnoiter the country on the waters of Arkansas and White Rivers, the higher up the better, as they will be the longer unapproached by our settlements, which will begin at the mouths of those rivers."

The treaty then proceeds to state that when the western party shall have found a tract of country that suits them the United States would arrange for an exchange of a just portion of their western country for a portion of the Cherokee eastern country; that the Cherokees, relying on the promises of the President, did explore the country west of the Mississippi and made choice of the country on the Arkansas and White Rivers, and there, west of the Mississippi River, first settled down on United States lands, and had notified the United States of these facts.

The Cherokees also appointed agents with power to ratify a treaty, etc.

The treaty proper then begins, and by sections 1 and 2 the Cherokees cede certain lands east of the Mississippi to the United States. Sections 3 and 4 provide for a census of the Indians, both those remaining and those removing, also for a division of their United States annuities on the basis of the census. By section 5 the United States bind themselves in exchange for the lands ceded in the first and second articles to give to that part of the Cherokee Nation on the Arkansas River as much land on said river and White River as they have or may hereafter receive from the Cherokee Nation east of the Mississippi, acre for acre, as the just proportion due that part of the nation on the Arkansas, agreeably to their numbers, which is to commence on the north side of the Arkansas River, at the mouth of Point Remove, or Budwell's old place, thence by a straight line northwardly to strike Chataunga Mountain, or the hill first above Shield's Ferry on White River, running up and between said rivers for complement, the banks of which rivers to be the lines, and to have the above line, from the point of beginning to the White River, run and marked, which shall be done soon after the ratification of this treaty.

Treaty No. 14, or the fourth treaty of Washington, was ratified February 27, 1819. It was negotiated by John C. Calhoun, Secretary of War, with the Cherokees, and was a ratification and exemplification of the treaty of "the Cherokee agency" in all its details, so far as the interests of the Cherokees remaining east of the Mississippi River are concerned. To which treaty the Cherokees west assented and received their share of the annuities on the basis of the census, construed by section six to be that the Indians east got two-thirds and the Indians west one-third.

This brings us down to the fifth treaty of Washington, ratified May 28, 1828, with which the treaty of Fort Gibson, concluded in 1833, but not ratified until April 12, 1834, and the treaty of New Echota, concluded in 1835 and ratified May 23, 1836, are the base and foundation upon which their patent was issued to the Cherokees. Their terms and construction will control the legal effect of the land-patent called for by them to be made by the United States to the Cherokees, and upon

which they so much rely. It is necessary, then, that we carefully cite their provisions and consider their terms.

Before citing their provisions it is necessary to make an explanatory and preliminary statement. It was at all times the desire of the Cherokees to be with their lands outside of the boundaries and free from all State or Territorial jurisdiction or control. Their first location between the White and Arkansas Rivers eventually came to be within the Territory of Arkansas. This was one of the causes that led to the treaty of 1828, whereby their lands were fixed in quantity at 7,000,000 acres and were shoved to the west and north, so as to be just outside the Territory. But in 1833 it was discovered that by the terms of the Creek treaty of January 24, 1826, at Washington, they, the Creeks, had a prior title to a portion of the lands assigned to the Cherokees in the treaty of 1828. This led to the treaty of 1833, the Creeks and Cherokees having first met in council and after full deliberation mutually agreed upon the boundary line between them; thereupon the treaty of 1833 was by the United States ratified so as to conform to the boundaries fixed upon between the Creeks and Cherokees, but the quantity, 7,000,000 acres, is the same.

The other language of the treaty in regard to the 7,000,000 acres of land and the outlet is reiterated in the same language, word for word, as in the treaty of 1828, except the United States secured the addition of the following proviso, namely:

Provided, however, That if the saline or salt plain shall fall within said limits prescribed for said outlet the right is reserved to the United States to permit other tribes of red men to get salt on said plains in common with the Cherokees, and letters patent shall be issued by the United States as soon as practicable for the land hereby guarantied.

By the year 1835 the Cherokees east of the Mississippi were ready to move west and join their brethren. This move on their part required a new treaty, in which they sold all their lands claimed, owned, or possessed by them east of the Mississippi River to the United States for $5,000,000, and, the united tribe being apprehensive that the lands west, ceded by the United States to them, were not enough for all their numbers, they desired to purchase more. Hence, in large part, the treaty of 1835, ratified in 1836, which in the preamble declares substantially that it is for the purpose of reuniting their people in one body, securing a permanent home for themselves and posterity, without the territorial limits of State sovereignties, and to establish and enjoy a government of their choice and live after their own views. Then the treaty, both in regard to the boundaries of the home reservation of 7,000,000 acres, the outlet, the saline or salt plains to be reserved for the use of the red men of the plains, and the call for the letters patent, employs the same language, word for word, as does that of 1833. Before considering the patent, I call attention to this extract from the preamble to the treaty of 1828, namely:

Whereas the present location of the Cherokees in Arkansas being unfavorable to their present repose and tending as the past demonstrates to their present degradation and misery, and the Cherokees being anxious to avoid such consequences and yet not questioning their right to their lands in Arkansas as secured to them by treaty, and resting also upon the pledges given them by the President of the United States and of the Secretary of War of March, 1818, and 8th of October, 1821, in regard to the outlet to the West, and, as may be seen on referring to the records of the War Department, still being anxious to secure a permanent home and to free themselves and their posterity from an embarrassing connection with the Territory of Arkansas and guard themselves from such connection in future; and whereas, etc.

It is absolutely necessary, before we can understand the treaty and the Cherokee patent, that we should know and understand what these pledges are. Are they capable of ascertainment and identification? If so, being referred to in the treaty and the treaty by direct citation incorporated into the patent, the legal effect is the same as if the pledges were copied word for word into the patent. We are told these pledges were made by the President and Secretary of War on certain dates, and were made in regard to the Outlet, and can be seen in the records of the War Department. There we find two documents that bear all the earmarks called for. One is as follows:

TALK TO THE CHEROKEE DELEGATION OF THE ARKANSAWS.

To General TONLONLUSKY, *Chief and Warrior of the Cherokees:*

MY FRIENDS AND CHILDREN, NATION OF THE ARKANSAW COUNTRY: The country which you gave up is a good country, and it is near and very convenient to us, and I shall in return act generously towards you, and endeavor to make you happy in your new homes on the Arkansaw. I have not yet obtained the land lying up that river to the west of your settlement.

I will give instructions to Governor Clark to hold a treaty with the Quapaws this summer in order to purchase them, and when purchased I will direct them to be laid off for you.

It is my wish that you should have no limits to the west, so that you may have good mill-seats, plenty of game, and not be surrounded by the white people.

By the President of the United States.

JAMES MONROE.

J. C. CALHOUN, *Secretary of War.*

This document was put in the War Office in March, 1818.

Being thus written in March, 1818, it was preliminary to the acquirement by the United States of the selected lands, which were to be obtained in part from the Quapaws, and contained the promise of the President and Secretary of War that the Indians were to have no limits to the west, good mill-sites, plenty of game, and not to be surrounded by the white people. The other document is as follows:

SECRETARY CALHOUN'S LETTER.

DEPARTMENT OF WAR, *October* 8, 1821.

BROTHERS: I have received your communication of July 24 last, complaining that the promises of the Government in relation to intruders upon your lands and to an outlet to the west have not been performed. It has always been its intention to carry into effect fully every promise made to you, and which I was under the impression had been done, particularly upon the points complained of, as orders were issued some time since for the removal of the whites from your lands and from the tract of country to the west of your reservation, commonly called "Lovely's Purchase," by which you would obtain the outlet promised. Copies of these orders are herewith inclosed for your information.

Governor Miles, who is now here on his return to the Arkansas Territory, informs me that he knows of but one person who has settled upon your lands, and he believes that person resides there with the permission of the nation.

He is, however, authorized to call the attention of Major Bradford to the orders above referred to, and, if they should not have been previously carried into effect, to request him to do so without further delay. It is to be always understood that in removing the white settlers from Lovely's Purchase for the purpose of giving the outlet promised you to the west you acquire thereby no right to the soil, but merely to an outlet, of which you appear to be already apprised, and that the Government reserves to itself the right of making such disposition as it may think proper with regard to the salt springs upon that tract of country. * * *

J. C. CALHOUN.

TEKE-E-TOKE, JOHN JOLLY, BLACK FOX, W. WEBBER, THOS. GRAVES,
Chiefs of the Arkansas Cherokees.

This last refers specifically to white intruders upon the outlet. The Cherokees complain the outlet has not yet been furnished. Secretary Calhoun says: "Orders were issued for the removal of the whites from your lands, and from the tract of country to the west of your reservation, commonly called Lovely's Purchase, by which you would obtain the outlet promised." [Observe the removal of the whites from Lovely's Purchase gives or creates the outlet.] But this is not all. Observe this language: "It is always to be understood that in removing the white settlers from Lovely's Purchase for the purpose of giving you the outlet promised you to the west you acquire thereby no right to the soil, but merely to an outlet." What further?

The Secretary then proceeds: "Of which you appear to be already apprised." It was then merely an outlet, an easement or privilege to travel over to the game of the hunting grounds of the great Western plains, and does not call for a fee to the soil. This was seven years before the outlet was first called for in the treaty of 1828, and was seventeen years before the patent was made. During all this time no treaty seeks to change the meaning of the word "outlet" from its primary or common understanding of an easement or right to use and travel upon the land into a claim of ownership to the soil and to the land of the outlet.

A patent to the lands ceded in fee-simple and to the outlet was granted in 1838, the language still preserving the term "outlet" throughout in the premises or recitation.

The patent is as follows:

PATENT OF THE UNITED STATES TO THE CHEROKEE OUTLET AND OTHER LANDS.

The United States of America to all to whom these presents shall come, greeting:

Whereas by certain treaties made by the United States of America with the Cherokee Nation of Indians of the 6th of May, 1828, the 14th of February, 1833, and the 29th of December, 1835, it was stipulated and agreed on the part of the United States that in consideration of the premises mentioned in the said treaties, respectively, the United States should guaranty, secure, and convey, by patent, to the said Cherokee Nation, certain tracts of land, the description of which tracts and the terms and conditions on which they were to be conveyed are set forth in the second and third articles of the treaty of the 29th of December, 1835, in the words following, that is to say:

"ART. 2. Whereas by the treaty of May 6, 1828, and the supplementary treaty thereto of February 14, 1833, with the Cherokees west of the Mississippi, the United States guarantied and secured, to be conveyed by patent to the Cherokee Nation of Indians, the following tract of country: Beginning at a point on the old western Territorial line of Arkansas Territory, being 25 miles north from the point where the Territorial line crosses Arkansas River; thence running from said north point south on the said Territorial line, where the said Territorial line crosses Verdigris River; thence down said Verdigris River to the Arkansas; thence down said Arkansas to a point where a stone is placed opposite the east or lower bank of Grand River, at its junction with the Arkansas; thence running south 44 degrees west 1 mile; thence in a straight line to a point 4 miles northerly from the mouth of the north fork of the Canadian; thence along the said 4-mile line to the Canadian; thence down the Canadian to the Arkansas; thence down the Arkansas to that point on the Arkansas where the eastern Choctaw boundary strikes said river and running thence with the western line of Arkansas Territory as now defined to the southwest corner of Missouri; thence along the western Missouri line to the line assigned the Senecas; thence on the south line of the Senecas to Grand River; thence up said Grand River as far as the south line of the Osage reservation extended, if necessary; thence up and between said south Osage line, extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south from said Osage line to said due west line will make 7,000,000 acres within the whole described boundaries.

"In addition to the 7,000,000 acres of land thus provided for and bounded, the United States further guaranty to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said 7,000,000 acres, as far west as the sovereignty of the United States and their right of soil extend: *Provided, however*, That if the saline or salt plain on the western prairie shall fall within said limits prescribed for said outlet the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees. And letters patent shall be issued by the United States, as soon as practicable, for the land hereby guarantied. And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of the sum of $500,000, therefore, hereby covenant and agree to convey to the said Indians and their descendants by patent, in fee-simple, the following additional tract of land situated between the west line of the State of Missouri and the Osage reservation, beginning at the southeast corner of the same, and runs north along the east line of the Osage lands 50 miles to the northeast corner thereof; and thence east to the west line of the State of Missouri; thence with said line south 50 miles; thence west to the place of beginning; estimated to contain 800,000 acres of land; but it is expressly understood that if any of the lands assigned the Quapaws shall fall within the aforesaid bounds the same shall be reserved and excepted out of the lands above granted and a pro rata reduction shall be made in the price to be allowed to the United States for the same by the Cherokees.

"ART. 3. The United States also agree that the lands above ceded by the treaty of February 14, 1833, including the Outlet, and those ceded by this treaty, shall

all be included in one patent, executed to the Cherokee Nation of Indians by the President of the United States according to the provisions of the act of May 28, 1830. It is, however, agreed that the military reservation at Fort Gibson shall be held by the United States. But should the United States abandon said post, and have no further use for the same, it shall revert to the Cherokee Nation. The United States shall always have the right to make and establish such posts and military roads and forts in any part of the Cherokee country as they may deem proper for the interest and protection of the same, and the free use of as much land, timber, fuel, and materials of all kinds, for the construction and support of the same, as may be necessary: *Provided*, That if the private rights of individuals are interfered with, a just compensation therefor shall be made."

And whereas the United States have caused the said tract of 7,000,000 acres, together with the said perpetual Outlet, to be surveyed in one tract, the boundaries whereof are as follows:

Beginning at a mound of rocks 4 feet square at base and 4½ feet high, from which another mound of rocks bears south 1 chain, and another mound of rocks bears west 1 chain, on what has been denominated the old western territorial line of Arkansas Territory, 25 miles north of Arkansas River; thence south 21 miles and 28 chains to a post on the northeast bank of the Verdigris River, from which a hackberry, 15 inches in diameter, bears south 61 degrees 31 minutes east 43 links, marked C. H. L., and a cottonwood, 42 inches diameter, bears south 21 degrees 15 minutes east 50 links, marked C. R. K. L.; thence down the Verdigris River on the northeast bank, with its meanders, to the junction of Verdigris and Arkansas Rivers; thence from the lower bank of Verdigris River, on the north bank of Arkansas River, south 44 degrees 13 minutes east 57 chains to a post on the south bank of Arkansas opposite the eastern bank of Neosho River at its junction with Arkansas, from which a red oak, 36 inches diameter, bears south 76 degrees 45 minutes west 24 links, and a hickory, 24 inches diameter, bears south 89 degrees east 4 links; thence south 53 degrees west 1 mile to a post, from which a rock bears north 53 degrees east 50 links, and a rock bears south 18 degrees 18 minutes west 50 links; thence south 18 degrees 18 minutes west 33 miles 28 chains and 80 links to a rock, from which another rock bears north 18 degrees 18 minutes east 50 links, and another rock bears south 50 links; thence south 4 miles to a post on the lower bank of the north fork of the Canadian River at its junction with Canadian River, from which a cottonwood, 24 inches diameter, bears north 18 degrees east 49 links, and a cottonwood, 15 inches diameter, bears south 9 degrees east 14 links; thence down the Canadian River on its north bank to its junction with Arkansas River; thence down the main channel of Arkansas River to the western boundary of the State of Arkansas, at the northern extremity of the eastern boundary of the lands of the Choctaws, on the south branch of the Arkansas River, 4 chains and 54 links east of Fort Smith; thence north 7 degrees 25 minutes west, with the western boundary of the State of Arkansas, 75 miles 64 chains and 50 links to the southwest corner of the State of Missouri; thence north on the western boundary of the State of Missouri, 8 miles 49 chains and 50 links to the north bank of Cowskin or Seneca River, at a mound 6 feet square at base and 5 feet high, in which is a post marked on the south side, cor. n. ch. L. d; thence west on the southern boundary of the lands of the Senecas, 11 miles and 48 chains, to a post on the east bank of the Neosho River, from which a maple, 18 inches in diameter, bears south 31 degrees east 72 links; thence up Neosho River, with its meanders, on the east bank, to the southern boundary of Osage lands, 36 chains and 50 links west of the southeast corner of the lands of the Osages, witnessed by a mound of rocks on the west bank of Neosho River; thence west on the southern boundary of the Osage lands to the line dividing the territory of the United States from that of Mexico, 288 miles 13 chains and 66 links, to a mound of earth 6 feet square at base and 5½ feet high, in which is deposited a cylinder of charcoal 12 inches long and 4 inches diameter; thence south along the line of the territory of the United States and of Mexico, 60 miles and 12 chains to a mound of earth 6 feet square at base and 5½ feet high, in which is deposited a cylinder of charcoal 18 inches long and 3 inches diameter; thence east along the northern boundary of Creek lands 273 miles 55 chains and 66 links to the beginning, containing within the survey 13,574,135 acres and .14 of an acre.

And whereas the United States have also caused the said tract of 800,000 acres to be surveyed, and have ascertained the boundaries thereof to be as follows: Beginning at southeast corner of Osage lands described by a rock from which a red oak 20 inches diameter bears south 27 degrees east 76 links, and a burr oak 30 inches diameter bears south 59 degrees west 1 chain and another burr oak 30 inches diameter bears north 8 degrees west 1 chain and 37 links; and another burr oak 40 inches diameter bears north 30 degrees west 1 chain and 81 links, and running east 25 miles to a rock on the western line of the State of Missouri, from which a post oak 10 inches diameter bears north 48 degrees 30 minutes east 4 chains and a post oak 12 inches diameter bears south 62 degrees east 5 chains; thence north with the western boundary of the State of Missouri 50 miles to a mound of earth 5 feet square at base and 4½ feet high; thence west 25 miles to the northeast corner of the lands of the Osages, described by a mound of earth 6 feet square at the base and 5 feet high; thence south along the eastern boundary of Osage lands 50 miles to the beginning, containing 800,000 acres.

Therefore, in execution of the agreement and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee Nation the two tracts of land so surveyed and hereinbefore described, containing in the whole 14,374,135.14 acres: To have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, to the said Cherokee Nation forever; subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt plain, on the western prairie, referred to in the second article of the treaty of the 29th of December, 1835, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article; and subject also to all the other rights reserved to the United States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved; and subject also to the condition provided by the act of Congress of the 28th of May, 1830, referred to in the above-recited third article, and which condition is that the lands hereby granted shall revert to the United States if the said Cherokee Nation becomes extinct or abandons the same.

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of December, in the year of our Lord 1838, and of the Independence of the United States the sixty-third.

[L. S.] M. VAN BUREN.

By the President:

H. M. GARLAND, *Recorder of the General Land Office.*

I now call attention that by the terms of article 3 the lands ceded by two treaties, including the Outlet, but not the lands of the Outlet, are all to be included in one patent; also, to the language of article 2. The United States guaranty and secure to be conveyed by patent a tract of country (describing it) to contain 7,000,000 acres; then the Government proceeds and says:

In addition to the 7,000,000 acres thus provided for and bounded, we further guaranty to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said 7,000,000 acres as far as the sovereignty of the United States and its right of soil extend.

Now, in the case of the 7,000,000 acres, the treaty uses this language, "guarantied and secured to be conveyed by patent." What? The 7,000,000 acres bounded as stated. Then when it comes to the Outlet uses this language, "In addition to the land guaranties a perpetual outlet west." A marked distinction in language and meaning.

Blackstone, in his Commentaries, book 2, page 298, says:

The premises of a deed "are used to set forth the number and names of the parties, and they also contain the recital, if any, of such deeds, agreements, or matters of fact as are necessary to explain the reasons upon which the present transaction is founded, and herein also is set down the consideration upon which the deed is made. Then next comes the habendum, the office of which is properly to determine what estate or interest is granted by the deed, though this may be performed and sometimes is performed in the premises, in which case the habendum may lessen, enlarge, explain, or qualify, but not totally contradict or be repugnant to the estate granted in the premises."

Now, the premises in the patent are mainly citations or quotations from three treaties, to wit: Those of 1828, 1833, and 1835. These quotations show not only the "reasons" upon which the patent was made, but also state and are the "considerations" upon which it was made. So far as relates to the Outlet the habendum totally contradicts and is repugnant to the estate granted in the premises, in this, that "the Outlet" is what the word signifies, an outlet or easement, a privilege to use for a certain purpose, but in the habendum the grant is of the fee of the lands embraced in a survey of the lands of the Outlet, and not a grant of an easement or use of such lands for an outlet, and to this extent the patent is void. As a legal proposition the President of the United States can no more make a valid patent to a part of the public lands, in the absence of a treaty or of a statute of the United States giving him authority so to do, than could a private individual.

Again, the letter of Secretary Calhoun (which, by incorporating the treaty of 1828 in the patent, in which treaty it is called for as a "pledge," upon which the treaty is based, is also incorporated into and becomes a part of the premises and therefore is a part of the patent itself) shows, first, "By the outlet promised you to the west you acquire thereby no right to the soil;" and, second, "Of this you appear to be already apprised." In other words, the Indians at that time fully understood the matter and in the same way that Secretary Calhoun did; and, as I have shown, this letter in legal effect is incorporated into and has become a part of the patent. These views are not without strong legal authority. Judge Brewer, of the United States circuit court, in 1887, in the case of United States *vs.* Soule *et al.*, 30 Federal Reports, page 918, used this language:

Manifestly, Congress set apart the 7,000,000 acres as a home, and that was thereafter to be regarded as set aside and occupied, because, as expressed in the preamble of the treaty, Congress was intent upon securing a permanent home; beyond that, the guaranty was of an outlet—not territory for a residence, but for passage ground, over which the Cherokees might pass to all the unoccupied domain west. But while the exclusive right to this outlet was guarantied and while a patent was issued conveying this outlet, it was described and intended obviously as an outlet, and not as a home.

There is nothing in the case of Holden *vs.* Joy, 17 Wall., page 211, to conflict with Judge Brewer's decision. The case in Wallace turned upon the adverse possession of Holden of a part of the 800,000-acre tract, which by the terms of the treaty of 1835 (see patent) the United States, in consideration of the sum of $500,000, had "covenanted and agreed to convey to the Cherokees and their descendants by patent in fee simple."

Neither the outlet, nor any of its lands, nor its title, were in controversy.

Again, Attorney-General Devens in 1880 (Attorneys-Generals' Opinions, 470) held that the Cherokees had no right to settle those of their own nation on the lands of the Outlet, and said further:

No person who may attempt to settle on these lands can justify under any authority given by the Cherokee Nation.

On the other hand the Cherokees claim that Judge I. C. Parker, of the western district of Arkansas, in the habeas corpus case of Wolfe and Ross, heard in May, 1886, held as follows, and as he had held in the case of United States *vs.* Rogers, 23 Fed. Rep., 659, namely:

That the Cherokee Nation hold what is called the Cherokee Outlet by substantially the same kind of title it holds its other lands. The title to all its lands was obtained by grant from the United States.

This opinion, it will be observed, assumes the grant of the Outlet in the patent to be valid. That is, the question of power in President Van Buren under the treaties to convey the soil in fee of the lands embraced in the Outlet was not before him. Judge Brewer was discussing the Outlet and is the higher authority also. Judge Parker found the lands of the Outlet on the face of the patent apparently granted. He so declares. The question of the validity of the grant, not being up before him, he does not pass upon it.

The friends of Oklahoma boldly, and as they verily believe, charge and assert that there never was at any time any law or treaty that authorized President Van Buren to make the patent of December 31, 1838, to include the fee of the lands of the Outlet. There was no authority to grant more than an easement of passage over the lands to the Cherokees.

As collateral facts tending to shed great light upon this question in the past by the Cherokees themselves, I briefly state:

First. By section 3, treaty of 1835, it is stated:

Whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of $500,000, hereby covenant and agree to convey to the said Indians and their descendants by patent in fee-simple the following additional tract of land.

Which tract was 800,000 acres and was described by its boundaries, and was located in the State of Missouri, adjoining north to their home reservation of 7,000,000 acres. Had they at that time believed they owned the lands of the Outlet, 7,500,000 acres in extent, a tract of land larger than their home reservation, which last was the only land ceded by that treaty to them, does any one believe they would have been apprehensive of falling short, or would have purchased any additional lands to settle their people upon?

Second. As a matter of fact, during all these years the Cherokee people have never settled upon or used any part of the lands of the Outlet for homes for their own people.

The Cherokees did use this strip as an outlet in great numbers annually to go to and upon the great hunting plains of the West for buffalo and other game until some time after 1850, when they ceased to so use it.

Judge Parker, in his decision above cited, speaking of the title to the outlet says:

It is a base, qualified, or determinable fee, without the right of reversion, but only the possibility of reversion in the United States.

This holding is based upon the closing reservations of the patent, to wit: "The lands hereby granted shall revert to the United States if the said Cherekee Nation becomes extinct or abandons the same."

Ex-Senator McDonald, of Indiana, in making the closing speech before the United States Senate Committee on Territories at Washington, on February 13, 1889, which he made as attorney for and on behalf of the Cherokees, and in the presence of Chief Mayes, in speaking of these reservations, says:

There is one expression contained here that of course would prohibit the Cherokee Nation from disposing of this property to any other party than the United States, or by the consent of the United States, so as to put it beyond their jurisdiction and control, and that is, when they cease to occupy these lands the lands go back to the United States. To that extent you may say that the fee conveyed by the patent is a base fee, and limited their right to dispose of the lands to any other power than the United States.

In view of all the foregoing I have no hesitation in stating that in my opinion the patent does not convey a fee-simple title, nor does it convey the base fee described by Senator McDonald to the lands of the Outlet.

What then did it convey? Plainly the Outlet was an easement. That and that only was conveyed.

As I understand the law, a non-user of an easement for the prescriptive time necessary to create it, where it is created by prescription and not by grant, as in this case, will destroy and terminate it. That period is twenty years. I believe that length of time of non-user will by analogy also destroy an easement created by grant.

The Cherokees have abandoned by non-user this easement or privilege of travel for more than thirty years; the easement has become extinct. The fact that they lease it is not a user of the easement. On the contrary, so far as the patent and the title alone are concerned, the lessees are trespassers, and that only.

Hitherto I have considered the questions of title only from the standpoints of the patent and treaties prior thereto.

While I hold that the patent is invalid, the question recurs: Have the Cherokees any other claim, either legal or equitable, to the lands of the Outlet? I think they have.

What is it and how did it originate?

In 1886, after the Cherokees had been in rebellion, a new treaty was made by the United States with them, in which the United States act seemingly upon the assumption that the Cherokees are the owners of the lands in the Outlet. When we remember that from the initial of negotiations in 1808 looking to the removal of the Cherokees west and their taking lands there nearly sixty years had elapsed, we must know that all active participants in making the removal and the treaties and also the patent for their lands are dead. All contemporaneous facts and events are obscured if not lost in the lapse of time, so that when the Cherokees assert claim to the lands of the Outlet and have an apparent patent for it it is not surprising that the treaty of 1866 goes upon the apparent assumption that the Cherokees are the owners.

There is but one section of that treaty that bears upon this question:

ART. 16. The United States may settle friendly Indians on any part of the Cherokee country west of 96°, to be taken in a compact form, in quantities not exceeding 160 acres for each member of said tribes thus to be settled, the boundaries of each of said districts to be distinctly marked and the land conveyed in fee-simple to each of said tribes, to be held in common or by their members in severalty, as the United States may decide, said lands thus disposed of to be paid for to the Cherokee Nation, as may be agreed upon between the parties in interest, subject to the approval of the President, and if they should not agree then the price to be fixed by the President.

The Cherokee Nation to retain the right of and jurisdiction over all of said country west of 96° of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.

Here, then, is a distinct recognition, acting as an estoppel upon the United States, that the country west of 96° (the Cherokee Outlet) is Cherokee country. Also that, while the United States may settle friendly Indians upon it, the price is to be paid to the Cherokees; and that until the lands are sold the Cherokee Nation retains the right of possession and jurisdiction over all the country west of 96°, which constitutes the Outlet. In this treaty the United States were apparently overreached by the Cherokees in the status of the lands of the Outlet as it really existed prior to that treaty.

Let us see what just foundation, as well as consideration, if any exists, to conclude that by the treaty of A. D. 1866 it was the intention of the United States to grant—and I now use the word "grant" in its technical or legal sense—any other or further assurances of title to the Cherokees than what they may have had by the terms of prior existing treaties to that of A. D. 1866.

It will be remembered that the Cherokees, or a large part of them, had gone into rebellion along with the Confederate States and had made a treaty with them in October, 1861.

The Cherokees had passed confiscation laws, and under them had sold farms and improvements, and had otherwise harassed Union Cherokees and others in their midst.

It needed, therefore, the strong arm of the Government to correct many evils that had grown up in five or six years of turmoil and war. So the treaty of 1866 is made. The preamble is short and terse, to wit:

Whereas existing treaties between the United States and the Cherokee Nation are deemed to be insufficient, the said contracting parties agree as follows, namely.

Article 1 declares the treaty with the Confederate States void.

Article 2 grants amnesty to the Cherokees for all crimes and misdemeanors.

Article 3 declares all confiscation laws passed by the Cherokees void and restores former owners to all their rights and property.

Article 4 gives all Cherokees and slaves who had become freedmen and who had left the Cherokee Nation prior to June 1, 1861, the right to return and to take up lands in certain districts, one hundred and sixty acres for each person.

Articles 5 and 6 provide certain civil rights for the returned Cherokees and freedmen.

Article 7 provides for a United States court to be created in the Indian Territory and declares what its jurisdiction shall be.

Article 8 relates to trading and licenses therefor, in the Cherokee Nation.

Article 9 provides for the protection and rights of the freedmen of the Cherokees.

Article 10 permits the shipment to and sale of the stock and products of the Cherokees in the United States.

Article 11 prescribes right of way for any railroad entering or crossing the nation.

Article 12 relates to a general council of delegates from each tribe in the Indian Territory, and states its powers.

Article 13 relates to a United States court or courts in the Territory.

Article 14 provides donations of land for missionary and educational purposes.

Article 15 is as follows:

The United States may settle any civilized Indians friendly with the Cherokees and adjacent tribes within the Cherokee country on unoccupied lands east of 96° on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the President of the United States, which shall be consistent with the following provisions, namely: Should any such tribe or band of Indians settling in said country abandon their tribal organizations, there being first paid into the Cherokee national fund a sum of money which shall sustain the same proportion to the then existing national fund that the number of Indians sustain to the whole number of Cherokees then residing in the Cherokee country, they shall be incorporated into and ever after remain a part of the Cherokee Nation on equal terms in every respect with native citizens.

And should any such tribe, thus settling in said country, decide to preserve their tribal organizations and to maintain their tribal laws, customs, and usages, not inconsistent with the constitution and laws of the Cherokee Nation, they shall have a district of country set off for their use by metes and bounds equal to 160 acres, if they should so decide, for each man, woman, and child of said tribe, and shall pay for the same into the national fund such price as may be agreed on by them and the Cherokee Nation, subject to the approval of the President of the United States, and in cases of disagreement the price to be fixed by the President. And the said tribe thus settled shall also pay into the national fund a sum of money, to be agreed on by the respective parties, not greater in proportion to the whole existing national fund and the probable proceeds of the lands herein ceded or authorized to be ceded or sold than their numbers bear to the whole number of Cherokees then residing in said country, and thence afterwards they shall enjoy all the rights of native Cherokees.

But no Indians who have no tribal organizations or who shall determine to abandon their tribal organizations shall be permitted to settle east of the ninety-sixth degree of longitude without the consent of the Cherokee Nation council, or of a delegation duly appointed by it, being first obtained. And no Indians who have determined to preserve their tribal organizations shall be permitted to settle, as herein provided, east of the ninety-sixth degree of longitude without such consent being first obtained, unless the President of the United States, after a full hearing of the objections offered by said council or delegation to such settlement, shall determine that the objections are insufficient, in which case he may authorize the settlement of such tribe east of the ninety-sixth degree of longitude.

Article 16 is as follows:

The United States may settle friendly Indians in any part of the Cherokee country west of ninety-sixth degree, to be taken in a compact form in quantity not exceeding 160 acres for each member of each of said tribes thus to be settled, the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee-simple to each of said tribes, to be held in common or by their members in severalty, as the United States may decide.

Said lands thus disposed of to be paid for to the Cherokee Nation at such price as may be agreed on between the said parties in interest, subject to the approval of the President; and if they should not agree, then the price to be fixed by the President.

The Cherokee Nation to retain the right of possession of and jurisdiction over all of said country west of ninety-sixth degree of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.

Article 17 cedes in trust, to sell to the United States, the lands of the Cherokees in the State of Kansas.

Article 18 provides for the sale of certain lands owned by the Cherokees in the State of Arkansas and east of the Mississippi River.

Article 19 relates to certain land rights and patents to issue for tracts of 320 acres, in severalty, to such Cherokees as desire to sever their tribal rights.

Articles 20 and 21 provide for surveying lands and establishing boundaries of the Cherokee country.

Articles 22 and 23 relate to the funds of the tribe in the possession of the United States.

Article 24, a donation of $3,000 to Rev. Evan Jones, a missionary.

Article 25 provides for an orphan asylum.

By article 26 the United States guaranties the peaceable and quiet possession of their country to the Cherokees.

ART. 27. The United States shall have the right to establish one or more military posts in the Cherokee Nation, as may be deemed necessary for the proper protection of the citizens of the United States lawfully residing therein and the Cherokees and other citizens of the Indian country. But no sutler or other person connected therewith, either in or out of the military organization, shall be permitted to introduce any spirituous, vinous, or malt liquors into the Cherokee Nation, except the medical department proper, and by them only for strictly medical purposes.

And all persons not in the military service of the United States, not citizens of the Cherokee Nation, are to be prohibited from coming into the Cherokee Nation, or remaining in the same, except as herein otherwise provided, and it is the duty of the United States Indian agent for the Cherokees to have such persons, not lawfully residing or sojourning therein, removed from the nation, as they now are, or hereafter may be, required by the Indian intercourse laws of the United States.

In articles 28, 29, and 30 the United States agree to pay certain expenses and losses of divers parties:

ART. 31. All provisions of treaties heretofore ratified and in force, and not inconsistent with the provisions of this treaty, are hereby reaffirmed and declared to be in full force; and nothing herein shall be construed as an acknowledgment by the United States, or as a relinquishment by the Cherokee Nation, of any claims or demands under the guaranties of former treaties, except as herein expressly provided.

From this brief digest of each section or article it will be seen that it was the heavy hand of authority laid upon the Cherokees rather than the hand of a giver of new gifts. The United States in almost every article either makes void prior acts of legislation on the part of the Cherokees or compels them to do justice by their refugees, their freedmen, and their missionaries and benefactors, or provides needful legislation and for future courts, and lessens the extent of their land domain by practically compelling the disposal of their lands (800,000 acres in the State of Kansas); and, finally, in the closing section, 31, it is stated:

All provisions of treaties, not inconsistent with the provisions of this treaty, are hereby reaffirmed and declared to be in full force; and nothing herein shall be construed as an acknowledgment by the United States, except as herein expressly provided.

Anywhere, everywhere, within the limits of this treaty of 1866, I fail to find any new consideration flowing to the United States and emanating from the Cherokees upon which to base the assumption that the Cherokees were purchasing or were granted new rights or immunities of any kind by the Federal Government. If it should be said that such consideration is to be found in articles 15 and 16, in relation to the settlement of friendly Indians, either east or west of the ninety-sixth degree on unoccupied lands of the Cherokees, I fail still to find any consideration flowing to the United States, but rather the heavy hand of power, compelling the location of friendly Indians.

Besides this, the friendly Indians so located are to pay the Cherokees for the lands so located upon by them, and not the United States, which keeps and reserves the authority, if the Cherokees and such friendly Indians can not decide upon the price to be paid for the lands, to determine it, as the power of last resort and as one having authority so to do.

But, says the advocate of the Cherokees, if the Cherokees had no patent nor authority of law of any kind prior to the treaty of A. D. 1866, still the admissions of that treaty are sufficient in any court to give the Cherokees title, for in the closing portion of article 16 it is stated:

The Cherokee Nation to retain the right of possession of and jurisdiction over all of said country west of 96° of longitude until thus sold and occupied.

I assert, in the calcium light of section 31, that this part of article 16 is not inconsistent with prior treaties, notably those of 1828, 1833, and 1835, which are incorporated into the patent of December 31, 1838. Why? Because the language used is but that of simple recognition of the already existing status, a status that had existed for over forty years, a status that even antedated the three said treaties and the patent, for the Cherokees had exercised possession, and with it jurisdiction, over the country of the Outlet from the time they migrated west of the Mississippi; and the language, while it can be applied by a grantee to ownership, yet is not the ordinary language of such ownership, but, on the contrary, is that of the party holding paramount title or authority, as a lessor to a lessee or of a grantor of an easement, as in this case, to his grantee.

And this view is much strengthened by the peculiar language used, to wit: "To retain the right of possession," not granted, not a new grant of power, either for or without a consideration, but a simple recognition of the existing status, namely: "To retain the right of possession of and jurisdiction over all of said country west of 96° of longitude."

These rights they had, and had exercised from the time of their location west, because without them the "outlet" to the game of the great plains would have been almost, if not quite, valueless to them. I therefore confidently assert that in the provisions of section 16 is not to be found any evidence that the United States intended to create a new grant of title, and the said section is nothing beyond a simple recognition of the already existing status of possession and jurisdiction.

This apparent recognition of their interest in the lands of the Outlet gives them an equitable claim upon the United States, which was recognized by the friends of the Springer bill at all times and is now recognized by the amendments put upon the Indian appropriation bill approved March 2, 1889, whereby a commission is created to whom is given power to conclude a purchase from the Cherokees of their lands in the Outlet upon the same terms of payment as were made and given to the Creek Indians, which, if accepted by the Cherokees, would give them about $7,500,000, the interest upon which at 5 per cent. would annually pay them $375,000 instead of $200,000, the amount they receive from the cattle-traders.

This last treaty, as stated, was made in 1866, and expressly stipulated that "the Cherokee Nation are to retain the right of possession." Can this right of possession be transferred? This brings us to the

LEASING OF THESE LANDS.

The present lease, or "contract for grazing," as the cattle-traders prefer to have it called, is subsequent to October 1, 1888. I do not know its exact date.

I now call attention to the following notice:

Letter of Secretary Vilas, on the right of the Indians to lease their lands to cattle companies.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., September 28, 1888.

SIR: In view of the information of this Department that some steps have been taken by you, or by the council or other authorities of the Cherokee Nation, with a purpose either to renew the lease which was heretofore made to certain parties, calling themselves the Cherokee Strip Live-Stock Association, or with an association or corporation of that name, and which it is understood is about to expire or has expired, or to execute some other lease or agreement for the use or occupancy of the lands of the Cherokee Outlet or some part thereof, and that a session of the Cherokee council is about to convene with a view to the enactment of measures to that end, I have the honor to advise and inform you, and through you the Cherokee council and authorities of the Cherokee Nation, that the United States Government will recognize no lease or agreement for the possession, occupancy, or the use of any of the lands of the Cherokee Outlet as of any legal effect or validity upon the rights of the United States or as conferring any right or authority or privilege over said lands upon any lessee, but that any such lease or agreement, if any should be made, will be without the authority or consent of this Government thereto, will be subject to cancellation, and any use or occupation by any lessee, or any person under such lessee, subject to instant termination by this Department at any time whenever any such action shall be for any reason deemed proper by the President or this Department, and will be subject to any legislation whatever, general or special, which Congress may enact, affecting that portion of the Cherokee country or affecting the occupancy of any Indian lands for any purpose whatever, whether for grazing, pasturage, or otherwise.

I desire that this notice of the views and rights of this Government shall be communicated to the council and to any persons who may be in or contemplating negotiation, or may enter into negotiation with the authorities of the Cherokee Nation for any such use or occupancy, in order that there may be no misconception or misunderstanding.

Very respectfully, yours,

WILLIAM F. VILAS, *Secretary.*

Hon. JOHN B. MAYES,
Principal Chief Cherokee Nation, Tahlequah, Ind. T.

This letter or notice explains itself. The cattle-men took their lease or contract with their eyes open; they evidently concluded the profit was sufficient to compensate in taking the risk, the more especially as they know all contracts made with Indians in this country, not expressly authorized by the statutes of the United States, are void, and that when they leave with their cattle that ends the obligation to pay, so far as the courts are concerned.

Do the United States statutes authorize Indians of any class to lease their lands? As conclusive upon this I refer to the opinion of Attorney-General Garland, issued July 21, 1885. He states that no lease can be approved by either the President or Secretary of the Interior without an act of Congress authorizing such leases, and points to the fact that no such land exists. He therefore holds all grazing leases on the Cherokee Strip void.

His opinion is as follows:

DEPARTMENT OF JUSTICE, *Washington, July 21, 1885.*

SIR: By your letter of the 8th instant, inclosing a communication from the Commissioner of Indian Affairs of the 7th, the following questions are, at his suggestion, submitted to me with request for an opinion thereon:

"Whether there is any law empowering the Interior Department to authorize Indians to enter into contract with any parties for the lease of Indian lands for grazing purposes; and also whether the President or the Interior Department has any authority to make a lease for grazing purposes of any part of any Indian reservation, or whether the approval by the President or the Secretary of the Interior would render any such lease made by Indians with other parties lawful and valid."

These questions are propounded with reference to certain Indian reservations, namely:

1. The Cherokee lands in the Indian Territory west of ninety-sixth degree of longitude, except such parts thereof as have heretofore been appropriated for and conveyed to friendly tribes of Indians.
2. The Cheyenne and Arapaho reservation in the Indian Territory.
3. The Kiowa and Comanche reservation in the Indian Territory.

Our Government has ever claimed the right, and from a very early period its settled policy has been, to regulate and control the alienation or other disposition by Indians, and especially by Indian nations or tribes, of their lands.

This policy was originally adopted in view of their peculiar character and habits, which rendered them incapable of sustaining any other relation with the whites than that of dependence and pupilage. There was no other way of dealing with them than that of keeping them separate, subordinate, and dependent, with a guardian care thrown around them for their protection. (3 Kent Com., 381; Beecher *vs.* Wetherby, 95 U. S., 517, where most of the cases on this subject are cited and discussed.)

Thus, in 1783 the Congress of the Confederation, by a proclamation, prohibited "all persons from making settlements on lands inhabited or claimed by Indians without the limits or jurisdiction of any particular State, and from purchasing or receiving any gift or cession of such lands or claims without the express authority and directions of the United States in Congress assembled," and declared "that every such purchase or settlement, gift, or cession not having the authority aforesaid is null and void, and that no right or title will accrue in consequence of any such purchase, gift, cession, or settlement."

By section 4 of the act of July 22, 1790, chapter 33, the Congress of the United States enacted "that no sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any State, whether having the right of pre-emption to such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States." A similar provision was again enacted in section 8 of the act of March 1, 1793, chapter 19, which by its terms included any "purchase or grant of lands, or of any title or claim thereto, from any Indians or nation or tribe of Indians within the bounds of the United States."

The provision was further extended by section 12 of the act of May 19, 1796, chapter 30, so as to embrace any "purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto." As thus extended it was re-enacted by the act of March 3, 1799, chapter 46, section 12, and also by the act of March 30, 1802, chapter 30, section 12.

In the above legislation the provision in terms applied to purchases, grants, leases, etc., from individual Indians as well as from Indian tribes or nations; but by the twelfth section of the act of June 30, 1834, chapter 161, it was limited to such as emanate "from any Indian nation or tribe of Indians." And the provision of the act of 1834, just referred to, has been reproduced in section 2116, Revised Statutes, which is now in force.

The last-named section declares: "No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution."

This statutory provision is very general and comprehensive. Its operation does not depend upon the nature or extent of the title to the land which the tribe or nation may hold. Whether such a title be a fee-simple or a right of occupancy merely is not material; in either case the statute applies. It is not, therefore, deemed necessary or important, in connection with the subject under consideration, to inquire into the particular right or title to the above-mentioned reservations held by the Indian tribes or nations respectively which claim them.

Whatever the right or title may be, each of these tribes or nations is precluded, by the force and effect of the statute, from either alienating or leasing any part of its reservation, or imparting any interest or claim in and to the same, without the consent of the Government of the United States. A lease of the land for grazing purposes is as clearly within the statute as a lease for any other or for general purposes, and the duration of the term is immaterial. One who enters with cattle or other live stock upon an Indian reservation under a lease of that description, made in violation of the statute, is an intruder and may be removed therefrom as such, notwithstanding his entry is with consent of the tribe.

Such consent may exempt him from the penalty imposed by section 2117, Revised Statutes, for taking his stock there, but it can not validate the lease or confer upon him any legal right whatsoever to remain upon the land; and to this extent and no further was the decision of Judge Brewer in United States *vs.* Hunter, 21 Fed. Rep., 615.

But the present inquiry in substance is (1) whether the Department of the Interior can authorize these Indians to make leases of their lands for grazing purposes or whether the approval of such leases by the President or the Secretary of the Interior would make them lawful and valid; (2) whether the President or the Department of the Interior has authority to lease for such purposes any part of an Indian reservation.

I submit that the power of the Department to authorize such leases to be made or that of the President or the Secretary to approve or to make the same, if it exists at all, must rest upon some law, and therefore be derived from either a treaty or a statutory provision. I am not aware of any treaty provision, applicable to the particular reservations in question, that confers such powers. The Revised Statutes contain provisions regulating contracts or agreements with Indians and prescribing how they shall be executed and approved (see section 2103); but those provisions do not include contracts of the character described in section 2116, hereinbefore mentioned.

No general power appears to be conferred by statute upon either the President or Secretary or any other officer of the Government to make, authorize, or approve leases of lands held by Indian tribes; and the absence of such power was doubtless one of the main considerations which led to the adoption of the act of February 19, 1875, chapter 90, "to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany reservations, and to confirm existing leases."

The act just cited is, moreover, significant as showing that, in the view of Congress, Indian tribes can not lease their reservations without the authority of some law of the United States.

In my opinion, therefore, each of the questions proposed in your letter should be answered in the negative, and I so answer them.

I am, sir, very respectfully,

A. H. GARLAND, *Attorney-General.*

The SECRETARY OF THE INTERIOR.

A strong argument against their power to lease the strip for grazing purposes to the cattle barons can be drawn from House bill No. 6162, introduced by Mr. Culberson, chairman of the House Committee on Judiciary, which will be sufficiently understood from its title, to wit:

A bill to authorize the Choctaw, Chickasaw, Cherokee, Creek, and Seminole Nations of Indians, respectively, to lease lands within their respective boundaries for mining purposes, subject to the approval of the Secretary of the Interior, and to validate leases heretofore made for said purposes by the proper authorities of any of said nations.

This bill was introduced on January 30, 1888, read twice, and referred to the Committee on Indian Affairs, which committee, on July 12, 1888, reported it favorably with the simple amendment that the leases should be "approved by the Secretary of the Interior."

I assume, then, that this bill was in the interest of the Indians of the five civilized tribes and done at their instigation. We have, then, this fact, patent to all: When this bill was introduced the five civilized tribes did not believe that their leases already made for mining coal were valid, nor did they believe that they had the power to make such a lease, and yet many of the mining leases were upon their home reservations, upon lands to which all agree they have title and are the owners.

Is it not, then, quite certain that as to the lands of the strip (which are not a part of their home reservation and upon which none of the Cherokees have ever settled) they have no authority to lease for grazing or any other purpose. The 6,000,000 acres in the strip are held in a different way and for a different purpose by the Cherokees from the 7,000,000 acres constituting their home reservation, for, as United States Judge Brewer says in the case of United States *vs.* Soule *et al.*, 30 Federal Reports, page 918:

Manifestly Congress set apart the 7,000,000 acres as a home and that was thereafter to be regarded as set aside and occupied, because, as expressed in the preamble of the treaty, Congress was intent upon securing a permanent home; beyond that, the guaranty was of an outlet (strip), not territory for a residence, but for passage ground over which the Cherokees might pass to all unoccupied domain west. But while the exclusive right to this outlet was guarantied and while a patent was issued conveying this outlet, it was intended, obviously, as an outlet, and not as a home.

And in this distinction Judge Brewer is undoubtedly correct.

House bill No. 6162 did not become a law, but in public act No. 98, approved March 1, 1889, entitled "An act to establish a United States court in the Indian Territory, and for other purposes," a fair substitute for it was passed in this language:

And provided further, That all laws having the effect to prevent the Cherokee, Choctaw, Creek, Chickasaw, and Seminole nations, or either of them, from lawfully entering into leases or contracts for mining coal, for a period not exceeding ten years, are hereby repealed.

And in this is to be followed the first direct grant of authority to the five civilized tribes to make a lease for any purpose, free from the supervision and assent of the United States.

All persons familiar with the laws of the Indian Territory, commonly known as the "non-intercourse laws," are aware that in their entirety they were drafted to keep out white men and intruders. Such was the desire of the Indians for many years, and while such was their wish and they co-operated with the United States, white men were practically kept out. In the last treaty made with the Cherokees in 1866, section 27 reads as follows, to wit:

* * * And all persons not in the military service of the United States, not citizens of the Cherokee Nation, are to be prohibited from coming into the Cherokee Nation or remaining in the same, except as herein otherwise provided; and it is the duty of the United States Indian agent for the Cherokees to have such persons not lawfully residing or sojourning therein removed from the nation as they now are or may be hereafter required by the Indian intercourse laws of the United States.

Here it is stipulated by treaty that we shall keep out all, except our military and Cherokee citizens, and, further, that the Indian agent shall put out all persons not "lawfully residing or sojourning therein." The cattle barons are not lawfully there, either as residents or sojourners. They ought to go, and Secretary Noble is correct in his ruling, and his letter breathes the right spirit, for Americans love fair play, and the true doctrine should be, Let the settler in as well as the cattle-men or keep both out. The discrimination in favor of the cattlemen has grown all the feeling that is so strong on our western border.

What modes of solving this question are open to the United States?

First. An acceptance by the Cherokees of the proffer of the Government on the same terms as were given to the Creeks for their lands.

Second. The location by the United States of friendly Indians on the Outlet at the price of 47.49 cents per acre, under the treaty of 1866, which is still in force, and under the terms of which the Government has heretofore located the Indian tribes of Nez Percés, Poncas, Otoes, *et al.* at that price.

Third. As it is plain under the law and from Senator McDonald's argument to the Senate committee that the Cherokees can sell to no party except the Government, unless by its consent, and as it is plain from Attorney-General Garland's opinion that the Cherokees can not lease these lands, of which the cattle-men had full notice from Secretary Vilas, and as Attorney-General Devens held that the Cherokees could not settle any of their own nation on the lands of the Outlet, and further held that no person attempting to settle on these lands could justify under any authority given by the Cherokee Nation, and finally as United States Circuit Judge Brewer in 1887 held "that the lands of the 'Outlet' were not territory for residence, but for passage ground, over which the Cherokees might pass to all the unoccupied domain west," there is, in my opinion, nothing—absolutely nothing—to prevent the President from issuing his proclamation ordering and directing all cattle-men with their cattle to vacate the "Outlet" at thirty days' notice, and use the military to enforce the terms of the proclamation, just as was done to keep the boomers from settling in Oklahoma prior to April 22, and just as President Cleveland did to keep settlers out of Oklahoma when it was invaded by Captain Payne and his followers.

If the Cherokees shall refuse to treat with the commission on the basis of March 2, 1889, this last is the course that should be pursued, when, with the cattle-men and their revenue gone, all leases forbidden, and the Cherokees unable to settle themselves upon the lands or to sell

to any one but the United States, it would be but a short time until the problem solved itself.

Mr. PERKINS. Mr. Chairman, I ask unanimous consent that general permission be granted to gentlemen who may desire to extend remarks in the RECORD upon this bill.

There was no objection, and it was so ordered.

Mr. STRUBLE. I now yield ten minutes to my colleague on the committee, the gentleman from Illinois [Mr. SPRINGER].

Mr. SPRINGER. Mr. Chairman, I ask the attention of the honorable gentleman from Georgia [Mr. BARNES] and also of the gentlemen who have listened to him, in order that I may dispel an illusion which has gained possession of his mind and with which he may have succeeded in clouding the minds of others. [Laughter.]

Mr. BARNES. An illusion or a delusion?

Mr. SPRINGER. A delusion.

Mr. BARNES. You are certain of that?

Mr. SPRINGER. Yes; and you will be certain when I am through. [Laughter.]

Mr. Chairman, the gentleman from Georgia stated that we were violating a treaty with the Indian tribes by placing the government provided for in this bill over the Indian tribes west of the ninety-eighth meridian. Now, I desire to ask his attention to the particular Indian treaty that prohibited us from putting the government over the lands formerly owned by the Creeks and Chickasaws west of the ninety-eighth meridian. The gentleman said that we were prohibited by treaty from legislating with regard to those lands. I want the gentleman's attention long enough now to convict him before this House and the country of unintentionally misrepresenting this bill. [Laughter.]

Mr. BARNES. Is that an illusion or a delusion?

Mr. SPRINGER. Both, for you. By the treaty of 1866 between the Chickasaws and Choctaws and the United States those Indians ceded to this Government absolutely all their right, title, and interest in the lands west of the ninety-eighth meridian.

Mr. BARNES. You refer to what are known as the leased lands.

Mr. SPRINGER. Yes, the leased lands.

Mr. BARNES. I am familiar with that.

Mr. SPRINGER. They ceded that land absolutely, and we paid for it, and the representatives of those tribes came before our committee at the present session; but instead of making the argument which the gentleman from Georgia makes, that we had no right to put a government over those Indians, they asked us to put a clause in the bill by which they could get additional compensation beyond that which we gave them before. They had one of the ablest attorneys in this city to argue their case before the committee, and that gentleman made no such claim as the gentleman from Georgia [Mr. BARNES] sets up, but only asked that in case we should hereafter settle white men upon those lands, we should pay them the full amount of $1.25 an acre. That was all those Indians claimed, and I say that under this treaty we have as much right to legislate in regard to those lands as we have to legislate with reference to No Man's Land and the Public Land Strip.

But, in addition to that, I call the gentleman's attention to article 7 of the treaty of 1866:

ART. 7. The Choctaws and Chickasaws agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory.

We can legislate with regard to the Choctaw Nation and the Chickasaw Nation under this treaty, as well as with regard to these lands west of the ninety-eighth meridian.

Mr. STRUBLE. And in another section of the treaty the courts are provided for, showing the distinction made between the courts and Territorial legislation.

Mr. SPRINGER. Yes; I will read the proviso:

Provided, however, Such legislation shall not in any way interfere with or annul their tribal organizations, or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs of the Choctaw and Chickasaw Nations respectively.

Now, that is the precise language of this bill, and therefore the bill does not interfere with any of these things; and after we have so provided, we can under these treaties pass any law that Congress and the President may see fit, so far as the Choctaw and Chickasaw Nations themselves are concerned, but especially can we do so with regard to the lands purchased from them west of the ninety-eighth meridian, to which they now claim no title whatever, but only ask that in case hereafter we settle white men there we shall pay them $1.25 per acre instead of the 30 cents an acre heretofore paid.

That is all there is about this. The Wichita Indians live right there [indicating on the map]. They have occupied that country from time immemorial, and I defy any man to point to a law of Congress or to a provision of any treaty whereby we agreed that we would not throw a Territorial government around them. There is no such law and no such provision in existence. They are there simply by right of occupancy, and we have never made any treaty with them to the contrary.

So that as to all the Indians west of the ninety-eighth parallel of longitude there is no treaty stipulation to-day that prohibits us from passing any law that Congress may see fit to pass with regard to them.

Now as to the Cherokee Outlet—this strip at the top of the map—I undertake to say (and I defy contradiction) that there never was an Indian located upon that land. There never was a time when an Indian had the right to settle on that land.

Mr. PICKLER. And there are none there now.

Mr. SPRINGER. There are none there now; not an Indian is there to-day; none has ever been there to settle. And Mr. Devens, when Attorney-General of the United States, held that the Cherokee country had no right to settle one of its citizens upon that Outlet. So that I repeat that there is no Indian there to be governed, no Indian there upon which any law can operate. If any Indian is there, he is there unlawfully; he has no right to be there. Nobody but the "cattle barons" are there.

All that this bill does in regard to the Cherokee Outlet is to provide that for judicial purposes that strip of land is to be considered a part of the Territory of Oklahoma. It is not subject to the law of the Territorial Legislature or to the law of Congress, except for the punishment of crime, the bringing of white criminals there to justice and furnishing a court that can try them. As the law has stood heretofore, persons committing crimes on that strip were taken to Kansas to be there punished, and no gentleman in this House ever for a moment pretended that we had not the right to provide for taking criminals from that strip and punishing them at Wichita, Kans. Yet it is pretended that, by taking criminals to Guthrie, where the lands have been purchased and are now owned and settled by white men, and trying criminals there for their offenses, we are violating an Indian treaty.

Gentlemen, this pretense about violating Indian treaties can not find any basis in this bill. The representatives of every Indian tribe, except the Seminoles, came before our committee this session and were heard—heard *ad nauseam*. We listened to every one of their appeals—some of them eloquent, some of them able, some of them very trivial; but we heard them all; and every demand that these representatives or delegates of the Indians made upon us in that committee we acceded to, with some trifling exceptions, and framed the bill accordingly. So far as I know there was not a single representative or attorney of an Indian tribe who, when he left the room of the Committee on Territories this session, did not concede that the committee had done perfect justice.

Look all through this bill and you will see provisions to protect the Indians; all through it their interests are guarded. And when you consider that there are more than 100,000 white men in that region of country and that more than half of the Indian tribes themselves there are white, that no adequate government for the protection of these people now exists, you will see the necessity for immediate legislation on this subject.

These five civilized tribes, being authorized under the law to lease their lands to white men, have done so to a large extent; and in this Chickasaw country (the red spot at the lower part of this map) there are 25,000 white people who are the tenants of the Indians under Indian leases; and at one point on the railroad this fall there were 17,000 bales of cotton shipped to the markets of the world. These white men have no government over them, no laws by which they can enforce their contracts. This bill proposes to give them a government. They are in that country lawfully; they are the lessees of Indian lands. Shall we deny them the protection that is given to our citizens everywhere? Shall we turn our backs upon them and leave them to the government of the shotgun and the revolver, as they are now left?

Mr. PICKLER. The town of Purcell has 1,500 inhabitants.

Mr. SPRINGER. Certainly; all that country is full of white people. The Choctaw Nation has leased lands for ninety-nine years to a coal syndicate of Philadelphia, and there are 15,000 miners engaged in mining coal there under leases made by the authority of these tribes. Are you to refuse government to these people? I say no. This bill proposes to give them the government that they need, and the Indians have acquiesced in what we propose.

[Here the hammer fell.]

Mr. ROGERS. Mr. Chairman——

The CHAIRMAN. The gentleman from Georgia [Mr. BARNES] will be recognized to dispose of the time as he may see fit.

Mr. ROGERS. Will the gentleman from Georgia yield to me?

Mr. BARNES. I yield to the gentleman for two or three minutes.

Mr. ROGERS. Mr. Chairman, on the 17th of last January my colleague [Mr. MCRAE] caused to be printed in the RECORD an official report presented to the Interior Department by two special inspectors of that Department, relating to the settlement of a certain portion of the territory embraced within the terms of this bill. At the time that report was in part published in the RECORD I had never seen it. On the following day I made some observations, which appeared in the RECORD of January 21, on the Oklahoma town-site bill. Since that time I have received a letter from Hon. William H. H. Clayton, of my own town, whose name is mentioned in that report and in my remarks also in relation to his connection with the "opening of Oklahoma." It is due to him, and it is likewise due to myself, that this letter and the accompanying interview should go upon the records and speak for themselves.

Inasmuch as the interview with Judge Clayton, which accompanied his letter, relates not to the report I have just mentioned, but to an interview which appeared in some of the Western papers—an interview with Mr. McBride, who was one of the inspectors who signed this report which I now hold in my hand—I think it proper that some pages of the official report to which I referred (for I had not then seen McBride's interview), together with the letter and interview of Judge Clayton, be printed in the RECORD. In order to avoid the consumption of time by having these papers read, I ask unanimous consent that the three documents I have mentioned, which are not of any great length, be printed in the RECORD in their order.

The CHAIRMAN. In connection with the remarks of the gentleman?

Mr. ROGERS. In connection with my remarks.

The CHAIRMAN. The gentleman from Arkansas [Mr. ROGERS] asks unanimous consent to print in connection with his remarks, the documents he has indicated. Is there objection? The Chair hears none.

The documents are as follows:

UNITED STATES LAND OFFICE, *Guthrie, Ind. T., May 7, 1889.*

DEAR SIR: Inclosed please find report in regard to action of officers in Oklahoma Territory.

Very respectfully,

J. A. PICKLER,
Inspector Public Land Service.

Hon. JOHN W. NOBLE,
Secretary Interior, Washington, D. C.

GUTHRIE, *April 27, 1889.*

General JOHN W. NOBLE,
Secretary of Interior:

We have the honor to respectfully report as follows:

About three hundred people were in and about Guthrie before 12 p. m. on the 22d instant. Two car-loads arrived upon Sunday evening and many were here upon Saturday; a few deputy marshals were in and about the town limits for a week or two previous to the legal opening of the Territory. This body of men was composed of deputy marshals, land officials, railroad employés, railroad stowaways brought here in freight trains, deputy internal-revenue collectors, and a host which can not be classified.

The first homestead entry was made by Mark S. Cohn, a personal friend of the receiver. He got in the land office under these circumstances: Three deputy marshals surrounded the doors. Col. D. B. Dyer, of the Wells-Fargo Express Company, stood in the middle of the door-way at 12 m. One of these deputy marshals sprang in front of Colonel Dyer; the door opened, and this deputy permitted two men to pass him; one was Cohn and the other J. E. Dille, half-brother of the register. Cohn entered a homestead for himself and filed three declaratory statements for others; he also presented a town plat, based upon a survey made before 12 m., and gotten up under the direction of Col. W. H. Clayton, of Fort Smith, Ark., another friend of the receiver. J. E. Dille, half-brother as aforesaid, was also one of the signers of this town plat.

The second entry made was a homestead by said Jehu E. Dille; he also made a declaratory statement for his brother Jonathan Dille and for one James B. Kenner. The three deputies who officiated at the land office were appointed at the special request of the register and receiver (see Marshal Needle's list of deputies), and of these three deputies two made declaratory statements through Cohn, the man whom they wrongfully admitted. The lands entered by Cohn and Dille surround the town of Guthrie, as will be seen by a plat herewith sent and marked Exhibit A.

In this connection we call your attention to Marshal Needle's report, showing that Colonel Clayton, who got up the town-site plat which was filed by the aforesaid Cohn, was appointed deputy marshal at the request of Receiver Barnes. We make no comment; the record, plat, and facts speak for themselves. Witnesses to above facts: (1) The record; (2) Major Nelson, clerk of the United States court at Muscogee; (3) D. B. Dyer, mayor of Guthrie, attorney as aforesaid and a personal friend of Major Warner, of Kansas City, Mo.

We send you herewith two lists of deputy marshals and entries so far made by them; we do not know that these are complete lists. The deputies shamefully misued their positions. In behalf of Marshal Needles I desire to state that he gave us every aid in his power to discover fraud or unfairness.

Collector of the Kansas district appointed a large number of deputies, to be called upon if necessary by Special Agent Clark. These appointments were used to defraud the bona-fide settlers and in violation of law.

We will send a supplemental report early next week about these deputies, and give, so far as we can ascertain them, a list of names. G. W. Jones, one of these deputies, was distributing points freely to friends in Newton and Arkansas City. Witness, F. W. Calais, general agent Champion Washing Machine Company, Joliet, Ill.

As one of the marshals expressed it to Captain McArthur, commandant of the post, "Everbody here is interested except you military men." The undersigned have held aloof from all factions, but found in Captain McArthur a gentleman of integrity, foresight, and high-minded purpose to discharge all his duties to the Government without self-seeking.

Your telegrams have been promptly answered; the delays were not ours, but caused by inefficient telegraph facilities. We have carried out your instructions in letter and spirit.

The hundred and one duties performed to make matters a success here can not be detailed in any report. We were consulted upon all sorts of questions by the citizens, and gave our aid, in connection with the commandant of the post, wherever it would benefit the general public or tend to promote public peace and security.

Our telegrams touching the quiet, orderly, and law-abiding spirit of this people were accurately true and we repeat those reports. The people know that, whatever fraud or unfairness may have been practiced, the Government is not a party to it, and they have full confidence that complete justice will be done them in due time. The list of entries made by officials and their friends does not include town lots, of which no record is kept.

As a matter of fact we know that deputies of all kinds hold town sites which they are not fairly entitled to and which were obtained by violating the President's proclamation. This report should have been gotten up in better form, but we write under difficulties, and will supplement it if necessary. We had to go slow in our investigations and win the confidence of the people who did not "stand in" with official grabbing.

Respectfully submitted.

CORNELIUS MACBRIDE,
J. A. PICKLER,
Inspectors.

APRIL 27, 1889.

The SECRETARY INTERIOR:

I desire to add, in addition to the report herewith of Inspector MacBride and myself, that I returned from Kingfisher Monday, 22d; that when in about a mile of the station I saw many men on the east half of section 8; that as I neared the station I found they had been surveying and staking lots, but before I reached the place they had dispersed, but were claiming lots as their own. The land office opened promptly at 12 o'clock, and Mark S. Cohn and Jehu E. Dille entered at once and made the filings referred to in our report. I think these filings were all made before the arrival of the train with settlers.

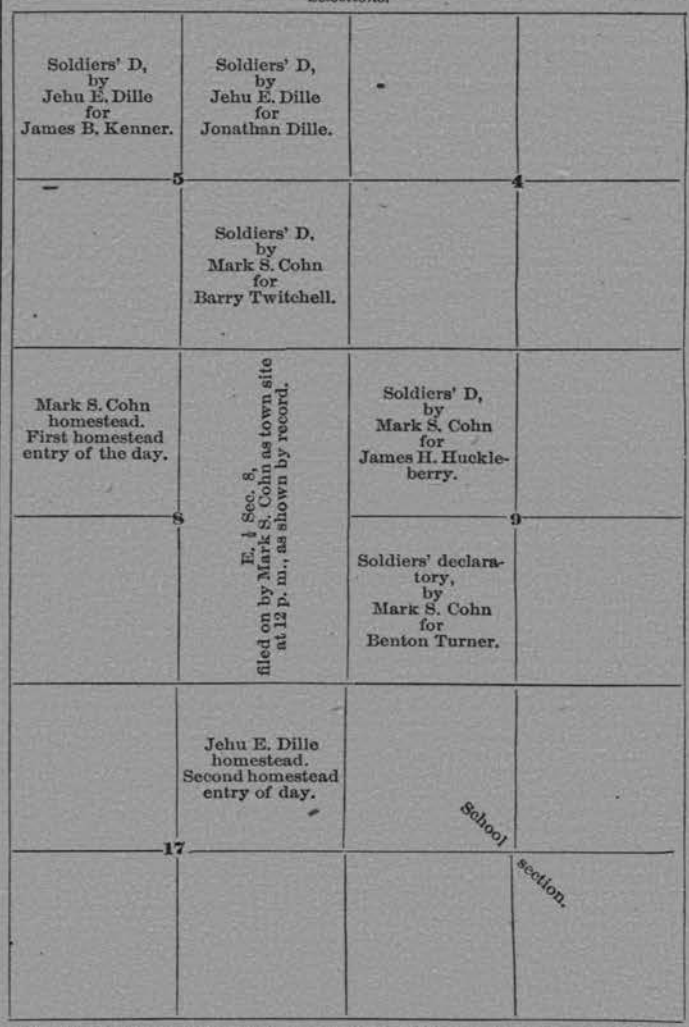
Very respectfully,

J. A. PICKLER.

EXHIBIT A.

[Township 16, range 2 N., I. M.]

Selections.



It will be observed that Cohn, who it is understood comes from Fort Smith, the receiver's town, enters the town site, and he and Jehu E. Dille, half-brother of the register, cover seven quarter sections about that town.

EXHIBIT B.

List furnished by Marshal Jones.

Names.	Place.	Date of appointment.
Capt. O. S. Rauck	Guthrie	1886
Charles Collins	do	1886
Ransom Payne (homestead entry 7, April 23)	do	1888
J. O. Severns	do	1886
Capt. W. J. Weaver (rej. 5, conflict T. S. Guthrie)	do	1889
M. J. Keyes	do	1888
John Patterson	do	1889
A. G. Jones (homestead entry 5, April 23)	do	1889
James White	Oklahoma	1886
J. B. Koontz (homestead entry No. 260, April 27)	do	1886
Aca Jones (homestead entry 8, April 23, agent for Henry S. Cowen, doc. 6, appl. Cohn rejt. con. T. S.; agent for David A. Harvey, No. 22, April 23, 10.45 a. m.)	do	1889
J. H. Walters	Kingfisher	1886
Captain Wyatt	do	1887
W. L. Jarrett	do	1886
B. L. Cox	Alfred	1889
J. P. Jennings	do	1889
Jack Stillwell	Darlington	1886
—— Lundy	Near Purcell (?)	

EXHIBIT C.

List of deputies appointed by T. B. Needles, marshal, Indian Territory.

[Matter in brackets written in pencil in original.]

Muscogee.	Remarks.
W. W. Ansley	On duty at Kingfisher.
William Forman	On duty at Muscogee.
David Adams	Do.
John G. Varnum [rej. 27, April 27 conflict with homestead entry, James Adams, April 24].	On duty at Guthrie.
Thomas Wright	On duty at Oklahoma City.
Jesse Ankrune	Do.
W. J. Wilkins	On duty at Norman.
T. J. Mitts	On duty at Guthrie.
Temp. Elliot [conflict prior homestead entry A. G. Jones, April 23, and S. D. S. 17, April 22].	Do.
Thomas J. Taylor [Doc. 31, homestead entry rejected, conflict homestead entry 1, April 22, Mark S. Cohn].	Do.
Daniel Hay	Do.
*Jasper N. Reece [conflict with homestead entry 3, H. W. Wolcott, con. T. S. Guthrie, agent for James T. Bell, rejected No. 1, John C. Bell, rejected 2, agent for H. N. Baker, No. 21 (S. D. S.)].	Do.
*John C. Bell [rejected 2, conflict T. S. Guthrie, not square].	Do.
Jacob Wheeler	On duty at Edmonds.
Benton J. Turner [S. D. S. 1, by agent Mark S. Cohn].	Appointed at special request of register and receiver and on duty at land office.
J. H. Huckleberry [S. D. S. No. 2, Mark S. Cohn, agent].	
O. E. Mohler	
Smith Winters	Appointed at special request of town authorities of East Guthrie.
Ed. Collins	On duty at Kingfisher.
George L. McDonough	On duty at Edmonds.
C. B. Smith	Do.
W. H. H. Clayton [12 m., April 22, T. S.]	At request of receiver.

*Reece and Bell to open boarding-house for United States officers.

I certify that the foregoing is correct.

T. B. NEEDLES,
Marshal Indian Territory.

Perry Twitchell, No. 3, by Mark S. Cohn, agent, filed April 22, 1.05 p. m.; No. 4, Jonathan Dille, by John E. Dille, agent, filed April 22, 1.05 p. m.; No. 5, James B. Kenner, by John E. Dille, agent, filed April 22, 1.30 p. m.; T. S. 12 m., Mark S. Cohn, April 22, John E. Dille.

In the written list of marshal's names you will find notes made by the land office clerks showing the attempted or successful actions of said marshals touching homesteads and S. declarations; most of the marshals, however, are interested only in town lots.—C. M.

Also append list showing deputy marshals making entries.

In the foregoing list of deputy marshals the following of their number made or attempted to make entries of land, and a number of them are claiming town lots, but as there is as yet no record of town lots claimed, we are unable to give the names of such as are holding such lots, and they can very readily change the apparent ownership, rendering it difficult to fix it.

Those making or attempting to make entries are as follows:

[Needles.]

David Adams, on duty at Muscogee, homestead rejected April 24; in conflict with homestead entry, James Adams, April 24.

T. J. Mitts, on duty at Guthrie; conflict prior homestead entry A. G. Jones, April 23, and soldier's declaratory 17, April 22.

Temp. Elliott, on duty at Guthrie; docket 37; homestead entry rejected; conflict homestead entry 1, April 22, Mark S. Cohn.

Thomas Hay, on duty at Guthrie; conflict with homestead entry of H. W. Wolcott and town site of Guthrie.

Jasper N. Reece, agent James F. Bell, rejected; agent John C. Bell, rejected; agent for H. N. Baker, No. 21 S. D. S., rejected; conflict with town site Guthrie.

Benton J. Turner, S. D. S., by agent, Mark S. Cohn.

J. H. Huckleberry S. D. S. No. 2, Mark S. Cohn.

O. E. Mohler signed application for town site.

W. H. H. Clayton signed town site application.

[Jones.]

Ransome Payne, at Guthrie, homestead entry, April 23.

Capt. W. G. Weaver, rejected; conflict town site Guthrie.

James B. Koontz, homestead entry, April 27.

Asa Jones, brother of marshal, came to Guthrie April 15 and remained, homestead entry 8, April 23. Agent for Henry S. Conner, rejected; conflict town site. Agent David N. Hervey, April 23.

FORT SMITH, ARK., *January* 28, 1890.

DEAR JUDGE: Inclosed please find copy of an interview by me, relating to the opening of Oklahoma, published in this morning's Fort Smith Times.

The charges against me you brought on the records of Congress to remain there forever, and in a speech took occasion to point out what you considered to be the damaging facts against me, of which action on your part I have not complained, either to your friends or to mine.

The facts stated in this interview are absolutely true. I have made them in vindication of my honor, which you will admit, up to this time, has never had a stain upon it, if this Oklahoma matter be not a stain, and when properly understood it is not.

I inclose this interview to you that you may make such disposition of it as your sense of justice and fairness may dictate.

Very respectfully,

WM. H. H. CLAYTON.

Hon. JOHN H. ROGERS,
Washington, D. C.

[From the Fort Smith Daily Times.]

THE GUTHRIE GRAB—JUDGE CLAYTON GIVES THE TRUE "OPEN STORY" AND SHEDS A WORLD OF LIGHT ON THE SUBJECT—A COLOSSAL SCHEME THWARTED—A SCHEME BY WHICH THE TOWN SITE OF GUTHRIE WAS TO HAVE BEEN "GOBBLED UP" BY A SYNDICATE WHOSE MEMBERS NOW HOWL WITH DISAPPOINTMENT.

A statement from Judge Clayton was desired for publication in Sunday's Times. Though he readily consented he was quite busy at the time, necessitating another call. Under this condition the Times promised the statement for Tuesday's paper, and is pleased now to make the promise good. When the reporter called again Judge Clayton, though up to his elbows in law documents, cheerfully shoved them aside and briefly told all he knew about Oklahoma. The starter was:

REPORTER. Mr. Clayton, I see by the St. Louis Republic of the 22d instant that Cornelius MacBride, in an interview, charges you with improper conduct in relation to the opening of Oklahoma. I would like your version of the matter.

Mr. CLAYTON. Yes, I have seen the purported interview, and am glad of the opportunity of making a public denial of the facts as stated, and of giving a full and true statement of the whole affair as I know it.

At the time, I was a private citizen; I held no office. It is true, I went to Oklahoma and it is also true that I entered the Territory on the Sunday evening before the Monday set apart by the President for the opening of the country to settlement. But it is not true that I went there for the purpose of entering land or obtaining any interest thereto. That part of the Indian Territory which now constitutes Oklahoma had, during the twelve years in which I had been district attorney for the western district of Arkansas, been in that district. It was known that thousands of people would rush into it at its opening. I, like thousands of others, who lived near the place, went merely as a spectator to witness the scenes and incidents of the opening.

On my arrival at Arkansas City, which, as you know, was the nearest city to Guthrie, and seemed to be the rendezvous for thousands of "boomers," as they were called, I found there, on their way to Oklahoma, Mr. Dille, the register of the land office, who was an entire stranger to me; Mr. Barnes, the receiver, my fellow-townsman and friend; Messrs. PICKLER and Hobbs, inspectors of the Interior Department, and a number of clerks and employés of the land office. These gentlemen were detained in Arkansas City a day or two; during which time I openly and publicly roomed, ate, and otherwise associated with Mr. Barnes, who was informed by me and who knew that I did not intend, either directly or indirectly, to enter or occupy or obtain any interest in or to any land, either by homestead or town-site entry or otherwise, in Oklahoma.

The law only prohibited those from entering Oklahoma before the time fixed by the President who intended to enter land, and its only penalty was and is that those who should enter that country before that time and take land should not have any of the benefits of the act; that is, should not be allowed to own or posses any land in Oklahoma. Now, as I did not intend to take, enter, own, or possess, either directly or indirectly, any land, either for myself or others, I determined to go down the evening before the opening, and did so.

It was reported that soldiers in Oklahoma were arresting persons who were not officers and subjecting them to a great deal of trouble, and it was suggested to me, by whom I do not now remember, that perhaps I had better have a deputy marshal's commission to avoid this trouble. I said I did not care for it, and United States Marshal Needles left about that time, and in an hour or two thereafter Mr. Barnes handed me a blank deputy marshal's commission (it was not signed), saying to me at the time that Mr. Needles had handed it to him with the request that he should hand it to me, but for me not to use it except to prevent these soldiers from molesting me. I put it in my pocket, and did not see Marshal Needles until the next day, when I met him in Guthrie. Immediately upon my arrival at that place I returned him the commission. I never qualified under it or used it in any other or further way than above stated.

Monday, April 22, was the day set apart by the President for opening the Territory. I arrived at Guthrie about 4 o'clock on the Sunday evening before, and not on Saturday, as stated by Mr. MacBride in his interview.

It is not true that I had a survey made on Sunday or at any other time before 12 o'clock of April 22. There was a survey made on Sunday, but it was before my arrival at Guthrie, and under the direction of a syndicate who were there for the purpose, as I was informed, of locating the town half a mile away from where Guthrie now stands, off the railroad, and in an improper place. They then intended to homestead the town-site proper, that is, the 320 acres where Guthrie now stands, and in that way secure the land on which the city must necessarily be built.

On my arrival at Guthrie I was informed of these facts, and I was not a Government inspector either. Mr. MacBride could have found them out as easily as I if he had been so disposed. I presume he knew them; for in his interview he regretfully says O. P. Dyer of his city "was expected to be the first man to make an entry," and in reality would have done so had it not been for certain deputy marshals. This "O. P. Dyer, of MacBride's city," I was informed, stood at the head and foot of the above-named scheme.

People came to me and asked me if there was no way to prevent the consummation of this combination, saying that if I could do anything to save the town site I would do an important service to the interests of the future growth of the city and the people who intended to settle there; and for that purpose, and that purpose only, a map, or rather a rough plat of the town of Guthrie and a town-site petition were prepared, under my direction, on Sunday night, to be filed the next day. This was done without any survey having been made and without the knowledge of the land-office officials.

When this map and petition was being prepared, it was supposed that the land office, which was the only building there except the depot, was on a half acre of ground which had been reserved from entry by the President's proclamation for that purpose, and was made by the map the initial point, and the center of the city. This building was not, however, on this half acre, but had been placed at another and much more eligible place. This map was given to Mr. Mark Cohn, because I had been informed that Mr. Cohn intended to make an effort to make the first entry.

I knew Mr. Cohn, and knew him to be an energetic man and believed him to be the best man for that purpose; knowing, however, that he must take his chances with the others and that he was not in the combination above spoken of. On the next day Mr. Cohn succeeded in making the first entry. He received no assistance, either directly or indirectly, from me, or from any friend of mine, or from any official of the land office, or any deputy marshal, as far as I know.

I was in Guthrie for nearly a week, and never heard such a thing spoken of or intimated, until I saw the charge a few days ago in MacBride's interview. Mr. MacBride said: "There were several hundred people there." Surely, if such a thing had been done, all of them would have been witnesses to the transaction, and it would have been universally talked of and condemned. People do not remain silent when such acts of injustice are done in their sight.

After making the map and drafting the petition, and placing them in the hands of Mr. Cohn, I had no further interest in the matter. I had done all that I thought I could justly and fairly do to save the town site, and did not intend to have anything more to do with it, after that time, and would not, had it not been for the fact that some two or three days later it was discovered that the land office was not on the Government half acre, but that the half acre upon which the building was supposed to be standing was some quarter of a mile from that place. By this time there were from six to eight thousand people there. The most of them had located town lots in accordance with the plat filed by Mr. Cohn on the 22d.

In making the plat, having made the land office the initial point, but locating it erroneously on the map at the place where the Government half acre was at the time supposed to be located, everything was thrown into hopeless confusion. The streets would come in the middle of the blocks, as located; many of the entries would come in the streets. Now, when this was discovered it produced great excitement; suspicions of foul play naturally arose in the minds of

many of the people, and as I had directed the making of the map, a thing which was not kept secret, but was known by everybody, it was expected and demanded of me that I would see that the correction was made.

I at once went to the land office and obtained admittance. I found there Mr. Dille, the register, Mr. PICKLER, Mr. Hobbs, and Mr. MacBride, the Government inspectors, and a number of clerks. This was the first and last time I ever saw Mr. MacBride to know him or ever spoke to him or in his presence. I told the gentlemen the condition of affairs. I was somewhat excited. I asked them if they knew that the building put up for the land office was not on the Government half acre. Some one of them told me that it was true.

I then told them of the excited condition of the people; that gamblers and plug-uglies were swarming into the city and fanning the excitement with the hope that in the confusion that would follow they might secure the choicest lots, and expressed the fear that when the effect of the error was fully known the excitement would become so intense that bloodshed might follow, and begged them to avert it if possible by not only making an effort to have the half acre established at the place where the land office was now located, but to make some kind of a public statement that would have the effect of abating the excitement. Mr. MacBride then angled up to me and in a half whisper, so that the others could not hear him, said to me:

"Mr. Clayton, do not get excited; your friends are my friends, and this shall be all right."

These are the only words Mr. MacBride ever spoke to me in his life. There is no truth in the statement that I went to him with my story, and that he told me that I might file my map, but that it would not be accepted by the Department. The map had been filed three or four days before I saw him.

After Mr. MacBride had spoken the words above mentioned, I said to him and all the others:

"I have no friends in this matter. Nor have I any interest in it on earth, except to see that this thing is justly dealt with; I have not entered a foot of land, either in the city or in Oklahoma, nor do I intend to take any interest, either directly or indirectly." Either Mr. PICKLER or Mr. Hobbs then said to me: "Mr. Clayton, the matter shall be looked into, and whatever is right will be done." I thanked him and again assured them of the fact that I had no pecuniary interest in the matter and bade them good-day.

It is from the fact that in this conversation I expressed the fear that in the excitement which I believed would spring up from the error in the map blood would be shed by the excited people if the matter was not adjusted, that MacBride deduces the threat which, in his interview, he says I made, to wit: "That unless the town-site map made by him (me) was allowed to be filed, blood would flow in the streets of Guthrie."

This statement is not only unfounded, but to those who know me it is ridiculous. I never made a threat against a man or set of men in my life. No person has ever heard me make a threat even against those who have done me the greatest wrong, much less in a case of this kind.

If a combination existed between myself and the land officers, as claimed by Mr. MacBride in his interview, what was the necessity of a threat, even if I had been so base and such a bully as to have made it?

The statement that I went to Mr. MacBride with my "open story" is entirely without foundation, unless the above-stated conversation can be construed to be my "open story."

After I left the land office I sent for a surveyor, who, under my directions, prepared an amended plat, making the streets conform to the land office as located, and prepared an amended petition, and then hunted up Mr. Cohn, as he had filed the first plat and petition, and had him file these amended ones, and in a day or two thereafter returned to my home in Fort Smith, Ark., and have not been to Oklahoma since. I did not enter, locate, occupy, possess myself of, or squat upon, either myself or through another, directly or indirectly, a square inch of land, either in Guthrie, its surroundings, or anywhere else in Oklahoma.

I had no understanding, directly or indirectly, by word, hint, or innuendo, either with Mr. Dille or Mr. Barnes, that Mr. Cohn should make the first entry or that anything else, proper or improper, should be done. As far as Mr. Dille is concerned I never spoke more than a dozen sentences to him in my life, and as for Mr. Barnes, I believe that if any improper advances had been made to him he would have spurned them with that scorn and contempt which every honest man should feel towards a wretch who would debauch a public officer.

If the facts stated in Mr. MacBride's interview are true, it was his imperative duty, under his oath of office, to fully and minutely report them to the Department he was serving. He made an official report, which falls far short of making the charges he makes in his interview. Certainly he can not now, in an unofficial way, enlarge and embellish what he then said under oath and in the discharge of his official duty. If he knows these facts to be true now, he knew it then, and every one would concede that they would have come with much better grace and force then than at a time when he is smarting under the chagrin and disappointment of a removal from office.

Mr. ROGERS. Mr. Chairman, I do not desire to submit any comments upon this matter at all. I prefer that the report, the letter, and the accompanying interview shall speak for themselves.

Mr. PICKLER. As the gentleman from Arkansas [Mr. ROGERS] has submitted to me that interview with Colonel Clayton, who therein speaks of having conferred, before the opening of the Territory, with certain inspectors at Arkansas City, and mentions me as having been at Arkansas City at that time with the register and receiver and other parties, I desire to say, as this interview goes into the RECORD, that I was not there at that time, but was in Oklahoma opening up the land offices. There was an inspector named Paisley, whom I think Colonel Clayton or the editor or reporter may have confounded with me.

Mr. ROGERS. I have no doubt, if there is any conflict between the statements on that point, that is a mere question of identity, and that Judge Clayton has mistaken the gentleman from Dakota for some other gentleman. I raise no question about that; I know nothing about it.

It is proper, perhaps, I should state that a part of this report which I desire to have printed involves a small map, and of course the map will be printed with the other portion of the papers.

Mr. BARNES. We will hear now from the other side.

Mr. PERKINS. We expected a portion of the remaining time would be occupied by this side by the gentleman from New York [Mr. BAKER], but he has gone from the Hall.

Mr. DOCKERY. We were here yesterday until 7 o'clock in the evening, and I do not see why the committee should not rise and the House adjourn.

Mr. HOOKER. I would like to be recognized and entitled to the floor, but will yield to a motion to rise, so I can submit my remarks in the morning.

Mr. STRUBLE. I hope he will proceed until half past 5 o'clock.

Mr. BARNES. I will yield for ten minutes to the gentleman from Texas [Mr. HARE].

Mr. HARE. Mr. Chairman, of the two bills under discussion, namely, the Senate bill and the House substitute, the former contains all the legislation now necessary, and is therefore preferable.

There is no necessity now existing for the establishment of additional courts in the territory occupied by the civilized tribes, and the objection to the House bill is that it provides for two more courts in addition to the one now at Muscogee.

The court at Muscogee was an experiment. It was given limited jurisdiction over the five civilized tribes and Oklahoma. It has answered the purpose of its creation, and other courts would be a useless expense. At first this court was crowded with business, started with what might be termed a boom.

But the business has decreased, and now there is no difficulty in disposing of every case on the docket. At present this experiment ought not to be extended by adding new courts. The tribes are objecting to the establishment of any more courts in their territory. They now look upon this new feature in their government with some degree of terror.

The first term of the Muscogee court had some 400 appearance cases. The business has decreased until the coming term has only 175 appearance cases. If the jurisdiction of this court was extended and better defined it would easily transact all the business within such jurisdiction in the five tribes.

I will send to the Clerk and ask to have read a protest by the governor of the Chickasaw Nation, which I am informed speaks the sentiments of the five civilized tribes through their delegates now in the city.

The Clerk read as follows:

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

The undersigned, governor of the Chickasaw Nation of Indians, one of the five civilized tribes occupying the Indian Territory, would respectfully represent that his nation is in a peaceable and prosperous condition; that its relations with the United States are of the most amicable character; that in its system of education the English language is taught; that in no school in the nation is the Chickasaw or any other Indian language taught, the object being to educate the rising generation to understand the laws and institutions of the United States, and they are then taught the respect and affection due from our nation to the people and Government of the United States.

He respectfully represents that there are pending several bills in Congress which have given his people great anxiety. He especially calls attention to bills for organizing the Oklahoma Territorial government, with all the machinery, including courts, of a Territorial government. He would especially call your attention to the solemn engagement of the United States Government made with the Choctaw Nation of Indians at Dancing Rabbit Creek by treaties of September 27, 1830, to be found in volume 7, United States Statutes at Large, page 333, the fourth article of which reads:

"The Government and people of the United States are hereby obliged to secure to the said Choctaw Nation of red people the jurisdiction and government of all the persons and property that may be within their limits west, so that no Territory or State shall ever have a right to pass laws for the government of the Choctaw Nation of red people and their descendants; and that no part of the land granted them shall ever be embraced in any Territory or State; but the United States shall forever secure said Choctaw Nation from, and against, all laws, except such as from time to time may be enacted in their own national councils, not inconsistent with the Constitution, treaties, and laws of the United States, and except such as may, and which have been enacted by Congress, to the extent that Congress, under the Constitution, is required to exercise a legislation over Indian affairs.

"But the Choctaws, should this treaty be ratified, express a wish that Congress may grant to the Choctaws the right of punishing by their own laws any white man who shall come into their nation and infringe any of their national regulations."

Your memorialist, speaking for and on behalf of the people of the Chickasaw Nation and expressing their wishes, states that the full force, benefit, and effect of said article of said treaty applies to the Chickasaw Nation, as will now be stated.

By the treaty of Doaksville of 1837, to be found in the Revised Indian Treaties, between the Choctaws and Chickasaws, ratified by the United States, the Chickasaws purchased of the Choctaws a part of the territory which the Choctaws acquired by the treaty of 1830, and removed from their former homes east of the Mississippi River, and located themselves where they now live, within the boundary assigned to the Choctaws by the treaty of 1830 aforesaid, and have continuously lived on the same up to this time.

That by the treaty of June 22, 1855, the Chickasaws and Choctaws were placed on the same footing as to territorial rights and non-interference therewith by the United States Government, so that the Chickasaws, in common with the Choctaws, are solemnly guarantied protection of all the rights guarantied by the fourth article of the treaty of September 27, 1830, aforesaid, and which, by the act of March 3, 1871, section 2079, are in full force and unimpaired. Your memorialist therefore, in the name of his people, solemnly protests against any Territorial or State government ever being placed over them, unless by the full and free consent, solemnly and formally expressed, through conventions of the people concerned.

Your memorialist would further state that the organization of the United States court at Muscogee was looked upon by his people with great distrust and misgiving at the time it was done. It was a radical innovation. It is too late to protest against its establishment, but experience has shown that the people were not prepared for it. Your memorialist protests against any extension of its jurisdiction. The want of a sufficient number of competent and impartial jurymen in the Indian Territory, and more especially in important civil and criminal cases, is manifest.

The jurisdiction now conferred on the Paris division of the eastern district of Texas, on the district court of the western district of Arkansas, at Fort Smith, and on the district court of Kansas, at Wichita, is satisfactory, and in all respects better than the conferring of such jurisdiction would be on any United States court that could be organized in the Indian Territory. Jurymen in those courts are intelligent and impartial, they are disinterested, and in every sense and for every reason, until our people are better prepared, those courts should be left undisturbed.

Your memorialist solemnly protests against any change. The time may come

when by the education of their people they may voluntarily consent to a Territorial or State government; but that time is not now, and your memorialist appeals to the sense of justice and fair dealing of your honorable bodies not to bring the mighty power of the Government of the United States down on a peaceable, confiding, and defenseless people by the establishment of a Territorial or State government or courts within their borders, which are but part of the machinery of such governments. It is but the beginning of the end, and the end is the annihilation of the Indian tribes in the Indian Territory. The Legislature of the Chickasaw Nation is not in session and can not be convened in time for action, and your memorialist, as in duty bound, speaks for his people.

Done at the executive office of the Chickasaw Nation at Tishomingo, under the seal of the nation, this 15th day of January, 1890.

WM. L. BYRD, *Governor of the Chickasaw Nation.*

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARE. I ask the gentleman from Georgia to yield to me for a minute longer.

Mr. BARNES. I will yield to the gentleman.

Mr. HARE. It has been asserted that these five civilized tribes do not object to this government or to these courts. The memorial that has been read expresses the sentiments of each of the five civilized tribes. Their delegates are here and have expressed kindred sentiments. They object to having any more courts established within their borders at present, and claim that the present court established at Muscogee is sufficient for all purposes.

Mr. MANSUR. I desire to ask the gentleman a question, with his consent. Are you aware of the fact that Governor Byrd sent a letter to the Committee on the Territories in which he admitted the right to put the courts there and that he asked us to establish one at Purcell?

Mr. HARE. I do not know anything about that.

Mr. MANSUR. I appeal to my colleagues on the committee to substantiate the statement.

Mr. HARE. As far as the right is concerned, of course I do not question it.

Mr. PERKINS. I will say for the benefit of the gentleman from Texas that I got a telegram from Judge Byrd myself, in which he asked me to aid in the establishment of a court at Purcell.

Mr. HARE. Very well; I have given his writing here to show the sentiment therein expressed, a document signed by himself, and which, I now repeat, contains the united sentiment of these tribes, as will be more fully shown before this debate closes.

Mr. STRUBLE. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. PAYSON reported that the Committee of the Whole House on the state of the Union having had under consideration the bill (S. 895) had come to no resolution thereon.

FARMS AND FARM MORTGAGES.

Mr. DUNNELL. Mr. Speaker, I rise to submit a privileged report from the committee of conference.

The SPEAKER. The report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1181) to require the Superintendent of the Census to ascertain the number of people who own farms and homes, and the amount of mortgage indebtedness thereon, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same.

M. H. DUNNELL,
JOSEPH D. TAYLOR,
A. M. DOCKERY,
Managers on the part of the House.
EUGENE HALE,
C. K. DAVIS,
J. H. BERRY,
Managers on the part of the Senate.

Mr. DUNNELL. I ask the adoption of the report.

The report was adopted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced the passage of a bill (S. 2304) to establish two additional land districts in the State of Washington, in which concurrence was requested.

IMPROVEMENT MISSOURI RIVER.

Mr. TARSNEY. Mr. Speaker, I ask unanimous consent to have printed in the RECORD the body of a memorial of the Kansas City Commercial Club relating to the improvement of the Missouri River.

The SPEAKER. Without objection, the memorial will be printed.

There was no objection.

The memorial, which was ordered to be referred to the Committee on Rivers and Harbors, is is follows:

KANSAS CITY, *February* 6, 1890.

Honorable Committee on Rivers and Harbors:

Your memorialist, the Commercial Club of Kansas City, would respectfully represent that it is a commercial body composed of merchants and other business men of said city, whose trade relations extend throughout the States and Territories lying in the valley of the Missouri River; that with the conditions, interests, and sentiments of said people it is familiar, and that by its knowledge thereof it feels fully warranted and impelled to address your honorable body, and urge upon you, and through you upon the honorable Congress of the United States, the adoption and steady maintenance of such line of policy respecting the improvement of the Missouri River, for the purposes of commerce and navigation, as in your wisdom may seem best calculated to secure the speedy completion of said improvement and the enlarged uses of the river. In support of this petition it would respectfully submit the following considerations:

First. The Missouri Valley embraces a vast area of agricultural country, of which the soil and climate are unexcelled and the productiveness unsurpassed. It is populated with an industrious and intelligent people, earnestly striving to develop its vast resources and make them contributory to the power and renown of our common country. Their products are chiefly cheap and bulky articles, which experience has proven will bear transportation by rail within narrow limits only, until the necessary cost of such transit, together with necessary cost of production, equals the market value at localities much more distant. The agricultural industries of the United States, producing a surplus beyond the wants of our own people, are not susceptible of that protection which has been so generously extended by Congress to the kindred industry of manufacture, but must seek sale for its surplus in the markets of the world, whereby the domestic price is regulated. In such markets we are confronted with the competition of peon labor in other parts of the world or with the products of countries less distant from sea transit.

In consequence of these facts, our industries are profitless, and our people, though possessing a country of unequaled resources, are deprived of the rewards of industry requisite to their comfort and happiness. The elements in the situation susceptible of such modification as to restore to our people the prosperity which is their right, and for which nature has so bountifully provided, are the burdens which existing methods of transportation impose, and this is to be secured by such an improvement of the Missouri River as will extend and enlarge its usefulness. It is needless for us to urge facts so well known as that water ways afford the cheapest transportation known to man, or, in the presence of the well known influence of the lakes and canals of the North in reducing cost of transportation, to urge that the improvement we seek would effect the desired reduction.

Such reduction would inure to the benefit of our producers, for the reason that the prices in the controlling markets abroad, which determine the prices in our local markets, are fixed by the surplus from other countries, and would not be affected by supplies received from us; hence all savings in the cost of transportation would accrue to the producer. Or, should the reduction in the cost of transit thus effected be such as to so increase the surplus from us as to affect the foreign market, that fact would speedily correct itself by reducing the supplies from other countries and give us the controlling position in the markets, greatly to the advantage of our whole country.

Second. We desire to respectfully represent also that the improvement of the Missouri River is not a sectional, but a national enterprise, in which the manufacturing industries of the whole country are equally interested. The safest, best, and most satisfactory customer for the American manufacturer is, and must always be, the American farmer, whose demand for manufactured merchandise is limited only by his ability to buy. Any addition to his gains by reduction of the cost of transportation of his products will be attended with additional requests upon the merchants and manufacturers. In like measure, also, the rail carrier will be benefited, although his profits in the carriage of agricultural products will be reduced. For these articles, now being carried at rates far below those charged for merchandise, there is so much less margin of profit that the rail carrier will be doubly compensated by the increased amount of the more profitable freight necessary to supply the requests of the more prosperous farmer.

Third. We hold that no interest is more entitled to the consideration of Congress than the one for which we speak. To Congress the Constitution commits the promotion of the general welfare, and in discharge of the obligation thus imposed Congress has appropriated many millions of dollars for waterway and harbor improvements on the Atlantic seaboard and eastern slopes of the Alleghany Mountains, where the interests to be subserved are of less national character. It has also given nearly 200,000,000 acres of land and guaranteed nearly $100,000,000 in bonds in aid of railways, the property of individuals and corporations, and a far more expensive means of transit, while an expenditure on the Missouri River, it has been ascertained by the Government's own officers, of a sum per mile equal to the capitalization of one single-track railway, will provide a public highway, open alike to all the people, of six hundred times the carrying capacity. Upon what policy can the Government enter more legitimately and what obligation of a Congress of the people is more imperative than thus to provide for the prosperity of the people by the exercise of powers which the Constitution lodges with it and denies to others?

Fourth. Having observed that, in so far as appropriations for river improvements have heretofore been made for specific localities, they have been inadequate for the completion of the work between floods and have resulted in loss by the destruction of incomplete work, besides which such appropriations are subject to the disadvantage and extravagance of requiring separate plants and a complete separate working force for their application, we beg to urge that appropriation for general improvements be made in gross sums for considerable reaches of the river, and their apportionment and application be left to the judgment of such officers and agents as Congress may, in its wisdom, from time to time place in charge thereof. In so far as the policy we favor has been employed on the Missouri River it has resulted in the economical application of funds in such sums as to complete and secure work undertaken, and therefore vindicate its right to adoption.

Fifth. While we urge that Congress take immediate steps, independent of other action respecting the river, to remove snags and like obstructions from its channel, we would urgently ask that provision be made for the protection of the river from the further erection of low bridges with frequent piers, which greatly obstruct its channel, impede navigation, and increase the cost thereof.

Respectfully submitted.

And then, on motion of Mr. MCMILLIN (at 5 o'clock and 5 minutes p. m.), the House adjourned.

RESOLUTIONS.

Under the rule, the following resolutions were submitted and referred as indicated below:

WILLIAM H. JONES, DECEASED.

By Mr. CRAIN:

Resolved, That the Clerk of the House be, and he is hereby, instructed to pay an amount equal to six months' salary, out of the contingent fund, to the widow of William H. Jones, late an employé in the east cloak-room of the House of Representatives;

to the Committee on Accounts.

SUSPENSION OF SENTENCE IN UNITED STATES COURTS.

By Mr. EZRA B. TAYLOR:

Whereas it appears by official reports filed in the Attorney-General's Office that the practice of suspending sentence in criminal cases after conviction prevails in many of the district courts of the United States, and particularly in the northern, middle, and southern districts of Alabama:

Resolved, That the Committee on the Judiciary be, and it is hereby, authorized to inquire into the extent, cause, and result of such practice, and report its find-

ings to the House, and that to this end said committee be authorized and empowered to send for persons and papers, administer oaths, take testimony, to employ a stenographer if needed, to send a subcommittee to such localities to take testimony and report the same to said committee as may be necessary, said subcommittee to have, while so engaged, the same powers herein given said Committee on the Judiciary as to taking testimony, and also to employ a clerk if his services are found to be required; that the Sergeant-at-Arms furnish said committee an officer to attend it or said subcommittee, and to serve such process as may be issued by said committee or said subcommittee; and that the expenses of such investigation be paid out of the contingent fund of the House;

to the Committee on the Judiciary.

REPORTS.

Under clause 3, Rule XXII, the following reports were filed and referred, as follows:

BRIDGE ACROSS ST. CROIX RIVER.

Mr. MASON, from the Committee on Commerce, reported back favorably the bill (H. R. 4574) for the construction of a bridge across the St. Croix River; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

TILGHMAN WEAVER.

Mr. CULBERTSON, of Pennsylvania, from the Committee on War Claims, reported a bill (H. R. 7210) for the relief of the heirs of Tilghman Weaver, deceased; which was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HENRY J. HEWITT.

Mr. CULBERTSON, of Pennsylvania, also, from the Committee on War Claims, reported, as a substitute for the bill (H. R. 1849) for the relief of Henry J. Hewitt, a bill (H. R. 7211) for the relief of Henry J. Hewitt; which substitute was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

W. H. COLLARDS ET AL.

Mr. CULBERTSON, of Pennsylvania, also, from the Committee on War Claims, reported back favorably the bill (H. R. 3069) for the relief of W. H. Collards *et al.*; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF MAURICE GRIVOT.

Mr. CULBERTSON, of Pennsylvania, also, from the Committee on War Claims, reported back favorably the bill (H. R. 3704) for the relief of the heirs of Maurice Grivot; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM BUSHBY.

Mr. TAYLOR, of Tennessee, from the Committee on War Claims, reported back favorably the bill (H. R. 2086) for the relief of William Bushby; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MALINDA GRIMES.

Mr. TAYLOR, of Tennessee, also, from the Committee on War Claims, reported back favorably the bill (H. R. 5250) for the relief of Malinda Grimes; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CUMMINGS, DOYLE & CO., AND DOYLE & CO.

Mr. TAYLOR, of Tennessee, also, from the Committee on War Claims, reported back favorably the bill (H. R. 3129) for the relief of Cummings, Doyle & Co. and Doyle & Co.; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

B. R. HACKNEY.

Mr. TAYLOR, of Tennessee, also, from the Committee on War Claims, reported back with amendment the bill (H. R. 1944) for the relief of B. R. Hackney; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SALLY HARDMOND.

Mr. TAYLOR, of Tennessee, also, from the Committee on War Claims, reported a bill (H. R. 7212) for the relief Sally Hardmond; which was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BRIDGE OVER ARKANSAS RIVER.

Mr. WALKER, of Missouri, from the Committee on Commerce, reported back with amendment the bill (S. 2185) to authorize the construction of a bridge over the Arkansas River, in the Indian Territory; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

JEAN LOUIS LEGARÉ.

Mr. HALL, from the Committee on Indian Affairs, reported back with amendment the bill (H. R. 1826) for the relief of Jean Louis Legaré; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SOUTHERN EXPOSITION, LOUISVILLE, KY.

Mr. BUNN, from the Committee on Claims, reported back favorably the bill (H. R. 1306) for the relief of the Southern Exposition at Louisville, Ky.; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SARAH M'TAVEY.

Mr. DE LANO, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. 2832) granting a pension to Sarah McTavey; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

OATHS IN PENSION AND OTHER CASES.

Mr. BUCHANAN, of New Jersey, from the Committee on the Judiciary, reported back with amendment the bill (H. R. 578) in relation to oaths in pension and other cases; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

FORMAN MATTHEWS AND DAVID STOUT PARKER.

Mr. BUCHANAN, of New Jersey, also, from the Committee on the Judiciary, reported back with amendment the bill (H. R. 4329) for the relief of Forman Mathews and David Stout Parker; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PATENTS, TRADE-MARKS, AND COPYRIGHTS.

Mr. SIMONDS, from the Committee on Patents, reported back favorably the bill (H. R. 3812) relating to patents, trade-marks, and copyrights; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

FEMALE NURSES IN THE LATE WAR.

Mr. THOMAS, from the Committee on War Claims, reported back favorably the bill (H. R. 6469) granting relief to the female nurses in the war of the rebellion; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN M. EDDY AND OTHERS.

Mr. GEST, from the Committee on War Claims, reported back with amendment the bill (H. R. 3223) for the relief of John M. Eddy, Elizabeth K. Carroll, Alice B. Eddy, and Frank M. Eddy; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ECKINGTON AND SOLDIERS' HOME RAILWAY COMPANY.

Mr. HEARD, from the Committee on the District of Columbia, reported back favorably the bill (S. 157) to amend the charter of the Eckington and Soldiers' Home Railway Company; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

PENSIONS.

Mr. LAWS, from the Committee on Invalid Pensions, reported back favorably bills of the following titles; which were referred to the Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill (H. R. 3056) granting a pension to Theodore J. Shandal;
A bill (H. R. 3055) for the relief of W. P. Alexander;
A bill (H. R. 1581) increasing pension of Andrew J. Ferguson;
A bill (H. R. 1579) granting a pension to John McCool; and
A bill (H. R. 1586) granting a pension to Augustine McLaughlin.

COPYRIGHTS.

Mr. SIMONDS, from the Committee on Patents, reported, as a substitute for the bill (H. R. 3914) to amend Title LX, chapter 3, of the Revised Statutes, relating to copyrights, a bill (H. R. 7213) in amendment of the Revised Statutes relating to copyright; which substitute was read a first and second time, referred to the House Calendar, and ordered to be printed.

STATE PILOTS.

Mr. CUMMINGS, from the Committee on Merchant Marine and Fisheries, submitted the views of the minority on the bill (H. R. 1003) exempting coastwise sailing-vessels piloted by their licensed masters or by a United States pilot from the obligation to pay State pilots for services not rendered; which was referred to the House Calendar and ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. PETERS, the Committee on Patents was discharged from the further consideration of bills of the following titles, and they were severally referred to the Committee on Claims:

A bill (H. R. 5615) for the relief of Jearum Atkins;
A bill (H. R. 3651) for the relief of William C. Dodge; and
A bill (H. R. 4449) for the relief of Joseph Trent.

FANNY B. RANDOLPH AND DORA L. STARK.

Mr. THOMAS, from the Committee on War Claims, reported back with amendment the bill (H. R. 3772) for the relief of Fanny B. Randolph and Dora L. Stark, with amendment the bill (H. R. 6063); which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF PIERRE SAUVÉ.

Mr. THOMAS also, from the Committee on War Claims, reported back with amendment the bill (H. R. 6063) to refer the claim of the heirs of Pierre Sauvé to the Court of Claims; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REANEY, SON & ARCHBOLD.

Mr. THOMAS also, from the Committee on War Claims, reported back favorably the bill (H. R. 2455) for the relief of Reaney, Son & Archbold; which was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

UNION NATIONAL BANK OF LOUISIANA.

Mr. THOMAS also, from the Committee on War Claims, reported back, as a substitute for the bill (H. R. 3216) for the relief of the Union National Bank of Louisiana, a bill (H. R. 7214) for the relief of the Union National Bank of New Orleans, as the successor of the Union Bank of Louisiana; which substitute was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FEDERAL IMMIGRATION LAWS.

Mr. OWEN, of Indiana, from the Select Committee on Immigration and Naturalization, reported back favorably a Senate concurrent resolution providing for a joint investigation of the workings of the Federal immigration laws; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

SALES OF PROPERTY FOR OVERDUE TAX.

Mr. GROUT, from the Committee on the District of Columbia, reported back favorably the bill (H. R. 5825) prescribing the times for sale and for notices of sales of property in the District of Columbia for overdue taxes; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

INTEREST ON TAXES.

Mr. GROUT also, from the Committee on the District of Columbia, reported back favorably the bill (H. R. 5179) fixing the rate of interest to be charged on arrearages of general and special taxes now due the District of Columbia if paid within a time specified; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

PROTECTION OF INDUSTRIAL PROPERTY.

Mr. BUTTERWORTH, from the Committee on Patents, reported a bill (H. R. 7215) authorizing the Secretary of State to appoint two suitable persons to represent the United States at the international conference in regard to the protection of industrial property, and making an appropriation therefor; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

EXECUTIVE COMMUNICATIONS.

Under clause 3 of Rule XXII, the following executive communications were taken from the Speaker's table and referred by the Speaker as follows:

OCONEE RIVER, GEORGIA.

A letter from the Secretary of War, transmitting, with letter from the Chief of Engineers, report on the examination and survey of Oconee River, Georgia—to the Committee on Rivers and Harbors.

SURVEY OF OCMULGEE RIVER, GEORGIA.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of the examination and survey of the Ocmulgee River, Georgia—to the Committee on Rivers and Harbors.

MAP OF CITY OF AUGUSTA, GA.

A letter from the Secretary of War, transmitting map of the city of Augusta, Ga.—to the Committee on Rivers and Harbors.

SURVEY OF THE SAVANNAH RIVER ABOVE AUGUSTA.

A letter from the Secretary of War, transmitting, with letter from the Chief of Engineers, report of the examination and survey of the Savannah River above Augusta—to the Committee on Rivers and Harbors.

RECEIPT, DISTRIBUTION, AND SALE OF PUBLIC DOCUMENTS.

A letter from the Secretary of the Interior, transmitting a report of the Superintendent of Documents, regarding the receipt, distribution, and sale of public documents on behalf of the Government—to the Committee on Printing.

ARMY GUN FACTORY.

A letter from the Secretary of the Treasury, transmitting an increased estimate from the Secretary of War for machinery and plant at army gun factory—to the Committee on Appropriations.

CASES BEFORE COURT OF CLAIMS.

A letter from the assistant clerk of the Court of Claims, transmitting copies of the findings of the court and statements in the following cases, namely:

William P. Posey *vs.* The United States;
John Murdock *vs.* The United States; and
William J. Grantham *vs.* The United States;
to the Committee on War Claims.

SENATE BILLS, RESOLUTIONS, ETC.

Under the rule, the following bills and resolutions of the Senate were taken from the Speaker's table and referred as indicated below:

Concurrent resolution requesting the President of the United States to invite the King of the Hawaiian Islands to select delegates to the Pan-American Congress.

Resolved by the Senate (the House of Representatives concurring), That the President of the United States be requested to invite the King of the Hawaiian Islands to select delegates to represent the kingdom in the Pan-American Congress now assembled at the Capital of this Republic;

to the Committee on Foreign Affairs.

Concurrent resolution to invite international arbitration as to differences between nations.

Resolved by the Senate (the House of Representatives concurring), That the President be, and is hereby, requested to invite from time to time, as fit occasion may arise, negotiations with any Government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two Governments, which can not be adjusted by diplomatic agency, may be referred to arbitration and be peaceably adjusted by such means;

to the Committee on Foreign Affairs.

A bill (S. 16) to enable the Secretary of the Interior to locate Indians in Florida upon lands in severalty—to the Committee on Indian Affairs.

A bill (S. 139) for the relief of James H. Smith, late postmaster at Memphis, Tenn.—to the Committee on Claims.

A bill (S. 150) for the relief of William Clift—to the Committee on War Claims.

A bill (S. 226) to authorize the President to confer brevet rank on officers of the United States Army for gallant services in Indian campaigns—to the Committee on Military Affairs.

A bill (S. 235) referring to the Court of Claims the claim of William E. Woodbridge for compensation for the use by the United States of his invention relating to projectiles, for which letters patent were ordered to issue to him March 25, 1852—to the Committee on Claims.

A bill (S. 242) for the relief of Mrs. Sarah Elizabeth Holroyd, widow and administratrix of the estate of John Holroyd—to the Committee on Claims.

A bill (S. 289) for the relief of the trustees of the German Evangelical Church of Martinsburgh, W. Va.—to the Committee on War Claims.

A bill (S. 735) for the relief of the heirs or legal representatives of Robert J. Baugness, deceased—to the Committee on War Claims.

A bill (S. 745) for the relief of Henry G. Healy—to the Committee on Military Affairs.

A bill (S. 755) granting a pension to George Fitzclarence—to the Committee on Invalid Pensions.

A bill (S. 758) granting a pension to M. Cornelia Brown—to the Committee on Invalid Pensions.

A bill (S. 760) granting a pension to Jonathan Hayes—to the Committee on Invalid Pensions.

A bill (S. 767) granting a pension to Thomas Dennis—to the Committee on Invalid Pensions.

A bill (S. 818) granting a pension to Catherine Morris—to the Committee on Invalid Pensions.

A bill (S. 828) for the relief of the legal representatives of Chauncey M. Lockwood—to the Committee on Claims.

A bill (S. 998) to remove the charge of desertion from the record of William H. Fenton—to the Committee on Military Affairs.

A bill (S. 1071) for the erection of a statue and monument to James Madison—to the Committee on the Library.

A bill (S. 1074) for the relief of John Hollins McBlair—to the Committee on Military Affairs.

A bill (S. 1296) for the relief of owners, officers, and crew of the British bark Chance—to the Committee on Claims.

A bill (S. 1439) for the relief of Chester B. Sweet—to the Committee on Claims.

A bill (S. 1752) to amend "An act to amend section 4400 of Title LII of the Revised Statutes of the United States, concerning the regulation of steam-vessels," approved August 7, 1882—to the Committee on Commerce.

A bill (S. 2079) for the relief of George W. Madden—to the Committee on Military Affairs.

BILLS AND JOINT RESOLUTIONS, ETC.

Under clause 3 of Rule XXII, bills and joint resolutions of the following titles were introduced by delivery to the Speaker for reference; which said bills were severally read twice and referred as follows, namely:

PENSION APPROPRIATION BILL.

Mr. MORROW, from the Committee on Appropriations, reported a bill (H. R. 7160) making appropriations for the payment of invalid and

other pensions of the United States for the fiscal year ending June 30, 1891, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

By Mr. FITHIAN: A bill (H. R. 7161) granting pensions to all soldiers and sailors over fifty-five years of age who have served in the war of the rebellion, Mexican war, and all other wars—to the Committee on Pensions.

By Mr. PICKLER (by request): A bill (H. R. 7162) to establish a system of subtreasuries, and for other purposes—to the Committee on Ways and Means.

Also, a bill (H. R. 7163) to erect a public building at Pierre, S. Dak.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7164) to amend and continue in force "An act to authorize the construction of a bridge across the Missouri River at Forest City, Dak., by the Forest City and Watertown Railway Company," approved August 6, 1888—to the Committee on Commerce.

By Mr. BUCHANAN, of New Jersey: A bill (H. R. 7165) to establish a memorial to Christopher Columbus in the city of Washington, D. C.—to the Committee on the Library.

By Mr. WADE: A bill (H. R. 7166) to amend section 3 of an act entitled "An act to amend the act dividing the State of Missouri into two judicial districts, and for other purposes"—to the Committee on the Judiciary.

Also, a bill (H. R. 7167) to establish a postal telegraph, and for other purposes—to the Committee on the Post-Office and Post-Roads.

By Mr. GEST: A bill (H. R. 7168) to provide for the establishment of a port of delivery at Rock Island, Ill.—to the Committee on Commerce.

By Mr. COMPTON: A bill (H. R. 7169) to amend the act of February 12, 1889, for the relief of certain property in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DUBOIS: A bill (H. R. 7170) to authorize the city of Ogden, Utah, to assume an increased indebtedness—to the Committee on the Territories.

By Mr. CHIPMAN: A bill (H. R. 7171) providing for the prompt removal of certain newly discovered dangers and obstructions to navigation in the Detroit River, Lake St. Clair, the foot of Lake Huron, and St. Mary's River—to the Committee on Rivers and Harbors.

By Mr. FARQUHAR: A bill (H. R. 7172) for the enactment of an act supplementary to "An act to provide for taking the eleventh and subsequent censuses," approved March 1, 1889—to the Select Committee on the Eleventh Census.

Also, a bill (H. R. 7173) to create and establish the pilot service of the United States, and to regulate the pilotage of vessels in the ports and harbors along the seacoast of the United States—to the Committee on Merchant Marine and Fisheries.

By Mr. DUBOIS: A bill (H. R. 7174) providing for the erection of a public building at Ogden, Utah—to the Committee on Public Buildings and Grounds.

By Mr. BANKHEAD: A bill (H. R. 7175) for the erection of a public building at Tuscaloosa, Ala.—to the Committee on Public Buildings and Grounds.

By Mr. BRECKINRIDGE, of Kentucky: A bill (H. R. 7176) to reorganize and equalize the rank and pay of the *personnel* of the United States Navy, and for other purposes—to the Committee on Naval Affairs.

By Mr. McCLAMMY: A bill (H. R. 7177) defining lard, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation thereof—to the Committee on Agriculture.

By Mr. BELKNAP: A bill (H. R. 7178) granting service and disability pensions to officers, soldiers, sailors, and marines in the Army and Navy of the United States of the war of the rebellion, and for other purposes—to the Committee on Invalid Pensions.

By Mr. CULBERSON, of Texas: A bill (H. R. 7179) in relation to claims arising under the provisions of the captured and abandoned property acts—to the Committee on the Judiciary.

By Mr. LODGE (by request): A bill (H. R. 7180) to provide for the appointment of assistants to the chiefs of bureaus in the Navy Department—to the Committee on Expenditures in the Navy Department.

By Mr. RUSSELL: A bill (H. R. 7181) to fix the rank of certain officers of the Army—to the Committee on Military Affairs.

By Mr. FLICK: A bill (H. R. 7182) for the erection of a public building at Creston, Iowa—to the Committee on Public Buildings and Grounds.

PRIVATE BILLS, ETC.

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

By Mr. ADAMS: A bill (H. R. 7183) for relief of Francis L. Hagadorn—to the Committee on Military Affairs.

By Mr. ANDREW: A bill (H. R. 7184) granting a pension to Ellen Finnerty—to the Committee on Invalid Pensions.

By Mr. BAKER: A bill (H. R. 7185) granting a pension to Mary G. Caley—to the Committee on Invalid Pensions.

By Mr. BURROWS: A bill (H. R. 7186) for the relief of John Redmond—to the Committee on Military Affairs.

By Mr. BYNUM: A bill (H. R. 7187) for the relief of Eli Conner—to the Committee on Invalid Pensions.

By Mr. CARLISLE: A bill (H. R. 7188) for the relief of William C. Watts—to the Committee on Claims.

Also, a bill (H. R. 7189) granting a pension to James H. Orr—to the Committee on Invalid Pensions.

Also, a bill (H. R. 7190) for the relief of Rebekah Wilkins—to the Committee on War Claims.

By Mr. CANNON: A bill (H. R. 7191) increasing the pension of Mark Dare—to the Committee on Invalid Pensions.

By Mr. CARUTH: A bill (H. R. 7192) for the relief of Charles D. Jacob—to the Committee on War Claims.

By Mr. DARLINGTON: A bill (H. R. 7193) for removal of charge of desertion against Alfred Lane—to the Committee on Military Affairs.

By Mr. FOWLER: A bill (H. R. 7194) for the relief of John M. Bryan—to the Committee on War Claims.

By Mr. KERR, of Pennsylvania: A bill (H. R. 7195) granting a pension to William Rimert—to the Committee on Invalid Pensions.

By Mr. KENNEDY: A bill (H. R. 7196) for the relief of William T. Crump—to the Committee on Claims.

By Mr. MANSUR: A bill (H. R. 7197) for the relief of Andrew P. Jenkins—to the Committee on Military Affairs.

By Mr. OWEN, of Indiana: A bill (H. R. 7198) granting a pension to Joseph Smith—to the Committee on Invalid Pensions.

By Mr. PIERCE (by request): A bill (H. R. 7199) for the relief of George P. Vance—to the Committee on War Claims.

By Mr. PRICE: A bill (H. R. 7200) for the improvement of Black Bayou, Louisiana—to the Committee on Rivers and Harbors.

By Mr. RAINES: A bill (H. R. 7201) to remove charge of desertion against Royal S. White—to the Committee on Military Affairs.

By Mr. RICHARDSON: A bill (H. R. 7202) for the relief of the estate of James C. Anderson—to the Committee on War Claims.

Also, a bill (H. R. 7203) for the relief of William A. Franklin—to the Committee on War Claims.

Also, a bill (H. R. 7204) for the relief of Collin Adams—to the Committee on War Claims.

Also, a bill (H. R. 7205) for the relief of Meshac Franklin—to the Committee on War Claims.

By Mr. STONE, of Kentucky: A bill (H. R. 7206) for the relief of Sarah A. Trimble—to the Committee on Invalid Pensions.

By Mr. STUMP: A bill (H. R. 7207) for the relief of Joab Brown—to the Committee on War Claims.

By Mr. TUCKER: A bill (H. R. 7208) to increase the pension of Gideon R. Strange—to the Committee on Invalid Pensions.

By Mr. WILSON, of West Virginia: A bill (H. R. 7209) for the relief of the trustees of the Methodist Episcopal Church at Harper's Ferry, W. Va.—to the Committee on War Claims.

CHANGE OF REFERENCE.

A bill (S. 325) for the payment of Sewell Coulson, and Porter, Harrison & Fishback for legal services—Committee on War Claims discharged, and referred to Committee on Claims.

A joint resolution (H. Res. 42) for the relief of John W. Judson—Committee on War Claims discharged, and referred to Committee on Claims.

PETITIONS, ETC.

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

By Mr. ADAMS: Petition of Francis L. Hagadorn, for relief—to the Committee on Military Affairs.

By Mr. ALLEN, of Michigan: Petition of H. W. White and 50 others, citizens of Lenawee County, Michigan, for a law forbidding speculation in farm products by futures, so called—to the Committee on Agriculture.

By Mr. BAKER: Petition of Mary G. Caley, mother of Herschell Caley, for a pension—to the Committee on Invalid Pensions.

By Mr. BELKNAP: Petition of National Furniture Manufacturers' Association, for the enactment of a law granting liberal mail subsidies to American steam-ship lines engaged in foreign trade—to the Committee on Merchant Marine and Fisheries.

By Mr. BLAND: Petition of Henry Sharp, praying for the reference of his claims (for property) to the Court of Claims—to the Committee on War Claims.

Also, petitions of Jane A. Marsh and others, of Scotia, and W. J. Self and others, of Cherryville, Mo., for the repeal of the special limitation on pension claims of State militiamen—to the Committee on Invalid Pensions.

By Mr. BRECKINRIDGE, of Kentucky: Petition of citizens of Lexington, Ky., and General Assemblies Presbyterian Church, South Cumberland Presbyterian Church, and Southern Baptist Convention, for Sunday-rest law—to the Committee on the Judiciary.

By Mr. BRICKNER: Memorial of the Business Men's Association,

James Mallmann and 86 others, George End and 22 others, and J. H. Meade and 22 others, for public building at Sheboygan, Wis.—to the Committee on Public Buildings and Grounds.

By Mr. BUCHANAN, of New Jersey: Petition of the mayor and citizens of Beverly, N. J., in favor of the per-diem pension law—to the Committee on Invalid Pensions.

By Mr. BULLOCK: Twenty-nine petitions of orange-growers of the State of Florida, for a higher tariff on oranges—to the Committee on Ways and Means.

By Mr. BYNUM: Petition of Samuel H. James, Robert White, and others, of Charlottesville, Ind., in favor of the Indiana and Kansas service-pension disability bill—to the Committee on Invalid Pensions.

By Mr. CANNON: Petition of Mark Dare, asking increase of pension to $30 per month—to the Committee on Invalid Pensions.

By Mr. CARLISLE: Petition of members of Homesteaders' Assembly No. 3140, Knights of Labor, of Iron River and Stambaugh, Iron County, Michigan, praying for the forfeiture of certain lands in that State—to the Committee on the Public Lands.

By Mr. CARUTH: Petition of John A Miller, asking that his name be placed on roll of Captain Maxey's company, Second Regiment Kentucky Volunteers, Mexican war—to the Committee on Pensions.

Also, papers to accompany H. R. 6073, granting an increase of pension to Nancy Smith—to the Committee on Pensions.

By Mr. CATCHINGS: Petition of Mary L. Dent, widow of Warren M. Dent, asking for reference of claim to the Court of Claims under the Bowman act and Tucker bill—to the Committee on War Claims.

By Mr. CONGER: Resolutions of Des Moines (Iowa) Typographical Union, asking for the passage of Senate bill 232, relative to copyrights—to the Committee on the Judiciary.

By Mr. DE HAVEN: Memorial of the Chamber of Commerce of Eureka, Cal., asking for appropriation for a light-house on Humboldt Bay—to the Committee on Commerce.

Also memorial of Chamber of Commerce of Eureka, Cal., asking for a public building at said city—to the Committee on Public Buildings and Grounds.

By Mr. DORSEY: Resolutions of Corinth Post, No. 153, Grand Army of the Republic, Department of Nebraska, favoring the Hovey pension bill—to the Committee on Invalid Pensions.

Also, resolutions of Grand Army of the Republic Post, Bartlett, Nebr., favoring the Hovey pension bill—to the Committee on Invalid Pensions.

By Mr. DUBOIS: Memorial of citizens of Ogden, Utah, for the passage of an act to authorize said city to assume an increased indebtedness—to the Committee on the Territories.

By Mr. ELLIOTT: Petitions of merchants of New York, of citizens of Boston, and of ship-owners of Philadelphia, New York, Baltimore, and Bangor, Me., praying for improvement of Winyah Bay, South Carolina—to the Committee on Rivers and Harbors.

By Mr. FUNSTON: Petition of Marmaton Lodge, F. M. B. A., of Gardner, Kans., asking for legislation against monopolies and trusts—to the Committee on Agriculture.

Also, petition of F. M. B. A. of Fulton, Kans., asking for the passage of the Senate mortgage-indebtedness bill—to the Select Committee on the Eleventh Census.

By Mr. GEISSENHAINER: Petition of Charles Meyers and others, praying for an appropriation for dredging between South Amboy and Great Beds Light in Raritan Bay—to the Committee on Rivers and Harbors.

By Mr. GIFFORD: Memorial of the Board of County Commissioners of Minnehaha County, South Dakota, for the correction of Government surveys in said State—to the Committee on the Public Lands.

By Mr. GROUT: Petition of property owners and citizens, in favor of H. R. 6676, for the relief of tax-payers for a change of grade—to the Committee on the District of Columbia.

By Mr. KELLEY: Petition of the Kansas retail implement dealers, asking that the raw material from which binding twine is manufactured be placed on the free-list—to the Committee on Ways and Means.

Also, petition of Jay Hawks Post, No. 140, Grand Army of the Republic, department of Kansas, asking the passage of the disability pension bill without the dependent clause; protesting against the idea that he must be a pauper before entitled to a pension; asking that every soldier's widow be pensioned at $12 per month; asking for the passage of the service-pension bills, for the repeal of the arrears act, for the equalization of bounties, and for the payment to all soldiers the difference between their pay as they received it, in depreciated currency, and what it would have been if paid in coin—to the Committee on Invalid Pensions.

By Mr. LANE: Petition of Horatio N. Roberts, for a pension—to the Committee on Invalid Pensions.

By Mr. LANHAM: Petition of citizens of Parker County, Texas, for the removal of the Federal court from Graham, Tex., to Weatherford, Tex.—to the Committee on the Judiciary.

By Mr. LANSING: Petition of M. H. Flaherty and others, for a pension for Follett Johnson—to the Committee on Invalid Pensions.

By Mr. LAWS (by request): Petition of 856 citizens of Nebraska, in support of the Sunday-rest law—to the Committee on the Judiciary.

By Mr. MORRILL: Resolutions of citizens of Sterling, Kans., favoring a service-pension bill—to the Committee on Invalid Pensions.

Also, papers relative to bill to set aside proceedings of a general court-martial in the case of Norman A. Bullard, Eighty-fifth Illinois Volunteers—to the Committee on Military Affairs.

Also, petition of Charles E. Morris and 50 others, of Blaine, Kans., asking for the passage of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. MORROW: Petition of silk-workers residing in San Francisco, Cal., in favor of House bill 584, entitled "A bill to modify existing laws relating to duties on imports, and the collection of the revenue"—to the Committee on Ways and Means.

By Mr. PARRETT: Petition of the Brewers' Association of Evansville, Ind., against any increase of import duty on hops—to the Committee on Ways and Means.

Also, petition of Calvert Lodge, No. 755, F. M. B. A., of Posey County, Indiana, against monopolies and trusts—to the Committee on Agriculture.

By Mr. PEEL: Petition of A. B. Greenwood, late Commissioner of Indian Affairs, asking for relief against judgment in Federal courts—to the Committee on the Judiciary.

By Mr. PENINGTON: Petition of 181 citizens of Wilmington, Del., asking for a Sunday-rest law for the District of Columbia and other Government employés—to the Committee on the Judiciary.

By Mr. PERKINS: Petition of Kansas Association of Retail Implement Dealers, asking to have the raw material from which binding-twine is made placed on the free-list—to the Committee on Ways and Means.

By Mr. PETERS: Petition of Retail Dealers' Association of Kansas City, Mo., favoring free binding-twine—to the Committee on Ways and Means.

Also, petition of ex-soldiers of Harney County, Kansas, for a service pension—to the Committee on Invalid Pensions.

By Mr. PHELAN: Petition of W. H. Moncrief, for reference of his claim, for stores and supplies used by United States Army, to the Court of Claims—to the Committee on War Claims.

Also, petition of R. D. Jordan, guardian of minor children of Claiborn Deloach, deceased, to refund purchase money paid at direct-tax sales—to the Committee on War Claims.

Also, petition of Leger Restle, for relief—to the Committee on War Claims.

Also, petition of Abbie P. Anderson, John Batemen, Mary L. Shields, and Sarah W. Jones, widow of ex-Governor James W. Jones, of Tennessee, asking for relief—to the Committee on War Claims.

By Mr. POST: Petition of Charles S. Blood, asking for relief—to the Committee on Military Affairs.

Also, petition of H. J. Cosgrove, George H. Martin, and Marshall De F. Wilden, asking for relief—to the Committee on Military Affairs.

Also, petition of 18 citizens of Stark County, Illinois, for the passage of a bill to pension Mrs. Sarah E. Starr—to the Committee on Invalid Pensions.

Also, petition and papers in the case of Howard Willison—to the Committee on Invalid Pensions.

By Mr. PUGSLEY: Petition of Sons of Veterans of Hatfield Camp, No. 399, Ohio division, for the passage of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. SCRANTON: Petition of 600 citizens of Scranton, Pa., asking for a Sunday-rest law—to the Committee on the Judiciary.

Also, petition of William B. Webb and Henry R. Elliott, trustees, praying for the passage of an act of Congress authorizing the sale of lot corner of H and Nineteenth streets in Washington City—to the Committee on the District of Columbia.

By Mr. SHERMAN: Petition of 200 residents of Lewis County, New York, asking that duty on hops be fixed at 25 cents—to the Committee on Ways and Means.

Also, petition of farmers of Lewis County, New York, asking an increase of tariff duties on certain farm products—to the Committee on Ways and Means.

By Mr. SMYSER: Petition of Sons of Veterans' Camp 337, West Salem, Ohio, asking Congress to pass a service-pension bill—to the Committee on Invalid Pensions.

Also, petition of 29 old soldiers of Chagrin Falls, Ohio, asking for pension legislation granting a service-pension—to the Committee on Invalid Pensions.

Also, petition of 67 old soldiers of Cuyahoga Falls, Ohio, asking for pension legislation, giving same precedence to any legislation looking to a reduction of revenue—to the Committee on Invalid Pensions.

By Mr. STEWART, of Georgia: Papers in support of the claim of William A. Lewis—to the Committee on War Claims.

By Mr. STEWART, of Texas: Petition of citizens of Texas, asking that in appropriation bill made for Agricultural Department an appropriation be made for an experimental station in Texas, in the interest of the growth of sugar products and the manufacture of sugar—to the Committee on Agriculture.

By Mr. STONE, of Kentucky: Twenty papers relating to the claim of H. Corth—to the Committee on War Claims.

By Mr. TARSNEY: Petition of W. F. Crafts, secretary American Sabbath Union, asking for a Sunday-rest law—to the Committee on the Judiciary.

By Mr. VAN SCHAICK: Petition of citizens of Wisconsin, favoring the Sunday-rest law—to the Committee on the Judiciary.

Also, petition of letter-carriers of Milwaukee, praying for the passage of House bill 3863, relating to salaries, etc.—to the Committee on the Post-Office and Post-Roads.

Also, memorial of Business Men's Association of Sheboygan, Wis., in relation to Government building at said place—to the Committee on Public Buildings and Grounds.

By Mr. WIKE: Statement of John Q. Brown, in support of the pension claim of Anna Kupfer—to the Committee on Invalid Pensions.

By Mr. WILKINSON: Petition of B. M. Palmer, D. D., and others, citizens of New Orleans, La., for a Sunday-rest law for the District of Columbia and for Government employés—to the Committee on the Judiciary.

By Mr. WILLCOX: Petition of citizens of Bridgeport, Conn., in relation to Sunday-rest law—to the Committee on the Judiciary.

SENATE.

WEDNESDAY, *February* 19, 1890.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

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

AGREEMENT WITH SISSETON AND WAHPETON INDIANS.

The VICE-PRESIDENT laid before the Senate a message from the President of the United States; which was read, as follows:

To the Senate and House of Representatives:

I transmit herewith a communication of the 8th instant from the Secretary of the Interior, submitting a report of the Commissioner of Indian Affairs and accompanying agreement made with the Sisseton and Wahpeton bands of Dakota or Sioux Indians, for the purchase and release of the surplus lands in the Lake Traverse Indian reservation, in the States of North and South Dakota, the negotiations for said purchase and release having been conducted under the authority contained in the fifth section of the general allotment act of February 8, 1887 (24 Stats., 388), which provides, among other things, that the "purchase shall not be complete until ratified by Congress, and the form and manner of executing such release shall also be prescribed by Congress."

This agreement involves a departure from the terms of the general allotment act in at least one important particular. It gives to each member of the tribe 160 acres of land without regard to age or sex, while the general law gives this allotment only to heads of families. There are, I think, serious objections to the basis adopted in the general law, especially in its application to married women; but, if the basis of the agreement herewith submitted is accepted, it would, I think, result, in some cases where there are large families of minor children, in excessive allotments to a single family. Whatever is done in this case will of course become in some sense a precedent in the cases yet to be dealt with.

Perhaps the question of the payment by the United States of the annuities which were forfeited by the act of February 16, 1863 (12 Stats., 652) should not have been considered in connection with this negotiation for the cession of these lands. But it appears that a refusal to consider this claim would have terminated the negotiation, and if the claim is just its allowance has already been too long delayed. The forfeiture declared by the act of 1863 unjustly included the annuities of certain Indians of these bands who were not only guilty of no fault, but who rendered meritorious services in the armies of the United States in the suppression of the Sioux outbreak and in the war of the rebellion.

The agreement submitted, as I understand, provides for the payment of the annuities justly due to these friendly Indians, to all the members of the two bands per capita. This is said to be the unanimous wish of the Indians, and a distribution to the friendly Indians and their descendants only would now be very difficult, if not impossible.

The agreement is respectfully submitted for the consideration of Congress.

BENJ. HARRISON.

EXECUTIVE MANSION, *February* 18, 1890.

Mr. DAWES. I move that the message and accompanying papers be referred to the Committee on Indian Affairs and printed.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of January 13, 1890, a copy of the report from the Commissioner of the General Land Office and the report from the Commissioner of Indian Affairs in regard to the northern boundary of the Warm Springs Indian reservation; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a report of the action of that Department in endeavoring to secure a site for a public building in Buffalo, N. Y., to accommodate the post-office and other Government offices at that place; which, with the accompanying papers, was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

FORT BLISS MILITARY RESERVATION.

The bill (H. R. 3923) to provide for the sale of the site of Fort Bliss, Texas, the sale or removal of the improvements thereof, and for a new site and the construction of suitable buildings thereon was read twice by its title.

Mr. REAGAN. The Committee on Military Affairs of the Senate have reported a bill in the exact terms of the one adopted by the other House, and if agreeable to the Senate I should like to have the Senate bill indefinitely postponed and the House bill passed now.

I will state that the military reservation at Fort Bliss has been frequently reported as insufficient by the War Department on account of its not being large enough and because the Southern Pacific Railroad runs directly through it. The citizens of El Paso propose to donate to the Government a thousand acres of land for the establishment of a post without expense to the Government, and it is believed that the property of the present post can be sold for enough to put up proper buildings on the larger and better grounds which the city of El Paso offers to give. It meets the approval of the Secretary of War, and the approval of the Major-General commanding the Army, and of the officers in command in that department. As the bill meets with the approval of the military and has passed the House of Representatives and received the recommendation of the Senate Committee on Military Affairs, I should be glad if the Senate would allow the Senate bill to be indefinitely postponed and adopt the House bill.

The VICE-PRESIDENT. The Senator from Texas asks unanimous consent for the present consideration of the House bill.

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

Mr. INGALLS. Is the bill reported from any committee?

Mr. REAGAN. It passed the other House, and a bill has been reported from the Military Committee of the Senate in exactly the same terms.

Mr. INGALLS. When?

Mr. REAGAN. It was reported about a week ago.

The VICE-PRESIDENT. The report was made on the 12th of February.

Mr. INGALLS. Is the bill on the Calendar?

Mr. REAGAN. Yes, sir; it is on the Calendar, No. 398.

Mr. INGALLS. I do not see the chairman of the Committee on Military Affairs here. It seems that the bill reported from the Military Committee of the Senate was with amendments.

Mr. REAGAN. Yes, sir; and those amendments were to make it conform to the House bill which has been passed by that body.

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

Mr. REAGAN. I now move that the bill (S. 1645) to provide for the sale of the site of Fort Bliss, Texas, the sale or removal of the improvements thereof, and for a new site and the construction of suitable buildings thereon be indefinitely postponed.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. BLACKBURN presented two petitions of citizens of New Jersey and Kentucky, praying for the passage of a Sunday-rest bill; which were referred to the Committee on Education and Labor.

He also presented the petition of Robert Storie Post, No. 104, Department of Kentucky, Grand Army of the Republic, praying for certain pension legislation; which was referred to the Committee on Pensions.

Mr. EVARTS presented a petition of 850 members of St. John's Methodist Episcopal Church, of Brooklyn, N. Y.; a petition of the Sabbath Association of Binghamton, N. Y., and a petition of a mass-meeting of citizens of Binghamton, N. Y., praying for the passage of a Sunday-rest law; which were referred to the Committee on Education and Labor.

Mr. STEWART presented the petition of Benjamin P. Snyder, Charles C. Glover, E. Francis Riggs, Hyde & Matthews, trustees of the Corcoran estate, and John B. Henderson and others, 52 in number, property-owners and persons to be accommodated by the proposed cable railway described in Senate bill 2590, praying for the passage of that bill; which was referred to the Committee on the District of Columbia.

He also presented the petition of J. Devereux and 15 other citizens of Raleigh, N. C., praying for the remonetization of silver; which was referred to the Committee on Finance.

Mr. PADDOCK presented a petition of the Grand Army of the Republic post of Bartlett, Nebr., praying for the passage of the per diem rated pension bill, and the repeal of the limit in present arrears law; which was referred to the Committee on Pensions.

He also presented the petition of John H. Patterson, of Chicago, Ill., praying for an increase of the salaries of United States postal clerks; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WILSON, of Iowa, presented a petition of the Methodist Episcopal Church (202 members) of Lebanon, Van Buren County, Iowa, praying for the passage of the Sunday-rest bill; which was referred to the Committee on Education and Labor.

Mr. CAMERON presented a petition of the Philadelphia (Pa.) Board of Trade, praying for certain amendments to the bill now pending in the Senate to simplify the laws in relation to the collection of the revenue; which was referred to the Committee on Finance.

Mr. FARWELL presented the petition of Mrs. Laura E. Skeels, of Austin, Cook County, Illinois, praying for the payment to her daughter of accrued pension due Nancy M. Elmendorf, deceased, dependent mother of Alexander F. Elmendorf, late a private of Company K, Second