

Also, claim of Jacob C. Douthil, of Northampton County, North Carolina—to the Committee on War Claims.

By Mr. SMYSER: Petition by 528 old soldiers of Wayne County, Ohio, asking for service pension—to the Committee on Invalid Pensions.

By Mr. SPRINGER: Petition of Mason County (Illinois) Grange, praying the passage of the amended Butterworth bill—to the Committee on Agriculture.

By Mr. STEPHENSON: Petition of citizens of Iron Mountain, Menominee County, Michigan, praying that the Government of the United States procure a site and erect thereon a suitable building for a post-office—to the Committee on Public Buildings and Grounds.

By Mr. STEWART, of Georgia: Petition of citizens of Georgia, protesting against the passage of the Conger lard bill—to the Committee on Agriculture.

Also, petitions of citizens of various counties of Georgia, protesting against the passage of the Conger lard bill—to the Committee on Agriculture.

Also, petition of citizens of Georgia, against the compound-lard bill—to the Committee on Agriculture.

By Mr. TAYLOR, of Tennessee: Petition of citizens of Sullivan County, Tennessee, asking for further protection of tin-plate—to the Committee on Ways and Means.

Also, petition of estate of Sarah McFarland, deceased, of Washington County, Tennessee, for reference of case to the Court of Claims under the provisions of the Bowman act—to the Committee on War Claims.

By Mr. TRACEY: Petition of John F. Rathbone, of Albany, N. Y., opposing an increase of duty on florists' stock—to the Committee on Ways and Means.

By Mr. TURPIN: Petition of William C. Ward, J. C. Compton, R. D. Walker, 12 business firms, and 159 other business men at Selma, Ala., protesting against the passage of the Conger compound-lard bill (H. R. 283), declaring the bill a direct blow at the cotton-growing and cotton-seed-oil industries—to the Committee on Agriculture.

By Mr. WALLACE, of Massachusetts: Petition of 31 members of Local Union 396, of the United Brotherhood of Carpenters and Joiners of America, of Fitchburg, Mass., asking for the enactment of a law that eight hours shall constitute a day's labor on all Government work—to the Committee on Labor.

By Mr. WHEELER, of Alabama: Claim of Emily F. Heard, now Steward, of Pulaski County, Arkansas—to the Committee on War Claims.

Also, claim of James S. Dunn, of Tuscaloosa County, Alabama—to the Committee on War Claims.

Also, claim of James Dougherty, of St. Francis County, Arkansas—to the Committee on War Claims.

Also, claim of David R. Cook, of Marietta, Cobb County, Georgia—to the Committee on War Claims.

Also, claim of William W. Glenn, of Batesville, Independence County, Arkansas—to the Committee on War Claims.

By Mr. WIKE: Petition of W. S. Warfield and 130 others, business men of the city of Quincy, Ill., asking the passage of laws for the perpetuation of the national-banking system—to the Committee on Banking and Currency.

By Mr. WILSON, of Missouri: Memorial of J. G. Grems, mayor of the city of Maryville, Mo., for an appropriation for a public building at that place—to the Committee on Public Buildings and Grounds.

Also, petition of the Building and Homestead Association of Maryville, Mo., for same purpose—to the Committee on Public Buildings and Grounds.

Also, memorial of the Board of Trade of the same city, for the same purpose—to the Committee on Public Buildings and Grounds.

Also, a petition of the Business Men's Association of the same city, for the same purpose—to the Committee on Public Buildings and Grounds.

By Mr. WRIGHT: Memorial of citizens of Wayne County, Pennsylvania, against a duty on hides—to the Committee on Ways and Means.

Also, petition of citizens of Wayne County, Pennsylvania, against proposed duty on tobacco—to the Committee on Ways and Means.

By Mr. YARDLEY: Memorial asking for an act of Congress requiring the insertion of an eight-hour clause in all contracts for Government work—to the Committee on Labor.

## SENATE.

SATURDAY, April 26, 1890.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

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

### PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of R. D. Wood & Co. and others, citizens of Philadelphia, Pa., praying for the passage of the tonnage bill; which was referred to the Committee on Commerce.

Mr. WILSON, of Iowa, presented a petition of the Manufacturers' Club of Philadelphia, Pa., praying for prompt action on the revision

of the tariff of such character as will check the importation of articles produced by our own people; which was referred to the Committee on Finance.

He also presented a petition of 76 ex-soldiers, citizens of Mitchellville, Polk County, Iowa, praying for the passage of a service-pension bill; which was referred to the Committee on Pensions.

Mr. PADDOCK presented a petition of the Omaha (Nebr.) Board of Trade, praying for the creation of a department of commerce, etc.; which was referred to the Committee on Finance.

He also presented a petition of the legislative committee of the National Grange, Patrons of Husbandry, of Washington, D. C., praying for the passage of such legislation as will prohibit the adulteration of food, gambling in farm products, and the formation and continuation of trusts; also, favoring the remonetization of silver and a revision of the tariff in the interest of agriculture; which was referred to the Committee on Finance.

He also presented a petition of the Manufacturers' Club of Philadelphia, Pa., praying for the passage of tariff legislation which will check the importation of such articles as are produced by our own people; which was referred to the Committee on Finance.

He also presented a memorial of 10 cigar manufacturers of Beatrice, Nebr., remonstrating against the proposed reduction of the tariff on imported cigars; which was referred to the Committee on Finance.

Mr. SAWYER presented a petition of H. W. Wolcott and 30 other citizens of Fond du Lac County, Wisconsin, praying for the passage of the bill known as the McKinley tariff bill; which was referred to the Committee on Finance.

Mr. HOAR presented a memorial of the Bolton (Mass.) Monthly Meeting of the Society of Friends, remonstrating against the proposed increase of the Navy and coast defenses; which was referred to the Committee on Naval Affairs.

He also presented a memorial of Cutler, Frost & Co. and other wholesale druggists of Boston, Mass., remonstrating against the passage of Senate bill 279, requiring the manufacturer of a proprietary medicine to publish his formula or recipe; which was referred to the Committee on Agriculture and Forestry.

Mr. PASCO. I present resolutions of the Chamber of Commerce of Pensacola, Fla., urging the importance of a liberal appropriation for the improvement of the inner and outer bars of Pensacola Harbor and an increase of the amount specified in the river and harbor bill as reported in the House of Representatives. I move that the resolutions be referred to the Committee on Commerce.

The motion was agreed to.

Mr. INGALLS presented the petition of Capt. Thomas W. Plummer, late of Company C, Sixth Wisconsin Volunteer Infantry, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

He also presented a petition of 52 citizens of La Bette County, Kansas, praying for the free coinage of silver; which was referred to the Committee on Finance.

He also presented the petition of the Board of Trade of Leavenworth, Kans., praying for the admission of Mexican flux ores free of duty; which was referred to the Committee on Finance.

He also presented the petition of the Board of Trade of Leavenworth, Kans., praying for the passage of a bankruptcy bill; which was referred to the Committee on the Judiciary.

He also presented the petition of sundry ex-Union soldiers of Kansas, praying for the passage of the service-pension bill; which was referred to the Committee on Pensions.

Mr. CALL. I present resolutions of the Chamber of Commerce of Pensacola, Fla., stating that they learn with great concern and alarm that there is a purpose on the part of Congress to cut down the appropriation recommended by the Engineer Department from \$40,000 to \$25,000 for the completion of the project for improving the inner Pensacola bar. They state that they feel that such reduction would render it impossible to secure the services of competent contractors for the performance of the work necessary for such port. I move that the resolutions be referred to the Committee on Commerce.

The motion was agreed to.

Mr. CALL. I present a petition of citizens of St. Augustine, Fla., and the petition of Ann Davenport, of St. Augustine, Fla., the only surviving daughter of an Indian scout, Benjamin Higgins, a mail-carrier and interpreter in the service of the United States during the Indian war of 1835. The petitions pray that a pension be granted to Ann Davenport, and when that order is reached I shall introduce a bill which accompanies the petitions. I move the reference of the petitions to the Committee on Pensions.

The motion was agreed to.

Mr. MANDERSON presented a petition of citizens of Otoe County, Nebraska, praying for the passage of a service-pension bill; which was referred to the Committee on Pensions.

He also presented petitions of citizens of Nemaha, Holt, Lancaster, and Webster Counties, in the State of Nebraska, praying for the free and unlimited coinage of silver and an increase of the circulating medium; which were referred to the Committee on Finance.

Mr. COCKRELL. I present a resolution of the St. Louis Cotton Exchange. I will read the resolution:

*Resolved*, That this exchange, having no future board, is not as an organization directly interested in the Butterworth bill; but we hereby submit as our opinion that such action by Congress as this bill contemplates would result in serious damage to the business interests of the country in unsettling values, making capitalists hesitate about embarking in legitimate business enterprises, and that the dealing in future deliveries is a matter which must regulate itself without special legislation.

I simply present this resolution, not indorsing it, and move that it be referred to the Committee on Agriculture and Forestry.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. PASCO, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 248) for the erection of a public building at Tampa, Fla., reported it with amendments, and submitted a report thereon.

Mr. SAWYER, from the Committee on Pensions, to whom was referred the bill (H. R. 7336) granting a pension to Charles Kernan, reported it without amendment, and submitted a report thereon.

#### DIVISION OF SIOUX RESERVATION.

Mr. PETTIGREW. I am instructed by the Committee on Indian Affairs, to whom was referred the bill (S. 3271) to enable the Secretary of the Interior to carry out, in part, the provisions of "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," approved March 2, 1889, and making appropriations for the same, and for other purposes, to report it with amendments. I am also instructed by the committee to ask for the immediate consideration of the bill.

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

The VICE-PRESIDENT. The amendments reported by the Committee on Indian Affairs will be stated.

The CHIEF CLERK. In section 1, line 28, after the word "day," the committee report to insert the words "and industrial;" so as to read:

For the erection of day and industrial schools.

The amendment was agreed to.

The next amendment was to add to section 1:

To enable the Secretary of the Interior to pay to the Santee Sioux Indians, located at Flandreau, S. Dak., the sum of \$1 per acre in lieu of the allotments of lands to which said Indians would be entitled under the provisions of section 7 of "An act to divide a portion of the Sioux reservation to Sioux Indians of Dakota in separate reservations, and to secure the relinquishment of the Indians to the remainder, and for other purposes," approved March 2, 1889, \$45,000, or so much thereof as may be necessary.

The amendment was agreed to.

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

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

The preamble was agreed to.

#### LIEUT. HENRY R. LEMLY.

Mr. MANDERSON. I am directed by the Committee on Military Affairs, to whom was referred the joint resolution (S. R. 76) to authorize Lieut. Henry R. Lemly, United States Army, to accept a position under the Government of the Republic of Colombia, to report it without amendment, and I ask that it may be now considered, as it is a matter in which haste is necessary.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to permit Lieut. Henry R. Lemly, of the Army, to accept from the Government of the Republic of Colombia the position of instructor in the national military school at Bogota, and the emoluments pertaining thereto.

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

#### BILLS INTRODUCED.

Mr. CALL introduced a bill (S. 3668) granting a pension to Ann Davenport; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MOODY introduced a bill (S. 3669) for the relief of Valentine Dunlap; which was read twice by its title, and referred to the Committee on Claims.

Mr. CULLOM introduced a bill (S. 3670) for the relief of Samuel G. Cabell; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 3671) for the relief of Mrs. E. A. Edgar; which was read twice by its title, and referred to the Committee on Claims.

Mr. INGALLS introduced a bill (S. 3672) to amend section 452 of the Revised Statutes, relating to the District of Columbia, concerning conveyances of real estate; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also (by request) introduced a bill (S. 3673) to increase and equal-

ize the pensions to certain disabled soldiers; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3674) for the erection of a public building at Lawrence, Kans.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Public Buildings and Grounds.

Mr. STEWART introduced a bill (S. 3675) to increase the pension of General Patrick E. Connor; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

#### PRINTING OF ELECTION BILL.

Mr. HOAR. I ask unanimous consent that 2,000 extra copies of Senate bill 3652 be printed for the use of the Senate.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Massachusetts?

Mr. COCKRELL. What is the bill?

Mr. HOAR. It is the national-election bill. I want these extra copies printed before the types are distributed.

The VICE-PRESIDENT. The Chair hears no objection, and it is so ordered.

#### MESSAGE FROM THE HOUSE.

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

A bill (H. R. 1456) granting a pension to Ira E. Smith;

A bill (H. R. 1670) granting a pension to Sarah Hamilton;

A bill (H. R. 1672) granting a pension to Margaret P. Minter;

A bill (H. R. 2106) to remove the charge of desertion against Daniel W. Selleck;

A bill (H. R. 2511) to relieve Benjamin F. Smith of the charge of desertion;

A bill (H. R. 3574) granting a pension to Mary E. Tipton;

A bill (H. R. 4038) granting a pension to James Fitzgerald;

A bill (H. R. 4126) granting a pension to H. G. Church;

A bill (H. R. 4127) granting a pension to Rhoda Williams;

A bill (H. R. 4152) granting an increase of pension to Albert Mabb;

A bill (H. R. 4258) increasing the pension of Francis Gilman;

A bill (H. R. 4359) granting a pension to Elizabeth Ogden;

A bill (H. R. 4372) granting a pension to John Dean;

A bill (H. R. 4909) for the relief of Henry East;

A bill (H. R. 4968) granting a pension to Elizabeth A. Jones;

A bill (H. R. 5238) granting a pension to Allen Coons;

A bill (H. R. 5299) for the relief of Chloe Cooper;

A bill (H. R. 6296) granting a pension to Samantha Williams;

A bill (H. R. 7078) granting a pension to Mary B. Stidger; and

A bill (H. R. 7414) granting a pension to Washington F. Short.

The message also announced that the House had passed the following bills:

A bill (S. 177) granting a pension to Mary McCowan;

A bill (S. 578) granting a pension to Mrs. Emma Dill;

A bill (S. 650) granting a pension to William H. Cummings;

A bill (S. 907) to restore the name of Mrs. Mary L. Bradford to the pension-roll;

A bill (S. 995) to increase the pension of Zachariah T. Crawford;

A bill (S. 1314) granting a pension to Davis Foster;

A bill (S. 2017) to increase the pension of Henry H. Penrod;

A bill (S. 2137) granting a pension to David C. Bullard;

A bill (S. 2283) to increase the pension of W. H. H. Bailey, of Braintree, Mass.;

A bill (S. 2290) granting a pension to Olina Hanson; and

A bill (S. 2347) granting increase of pension to George L. Warren.

The message also announced that the House had concurred in the amendments of the Senate to the concurrent resolution of the House providing for the printing of the House bill No. 9416, and including the report of the committee and views of the minority, in pamphlet form.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

A bill (S. 157) to amend the charter of the Eckington and Soldiers' Home Railway Company;

A bill (S. 895) to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes;

A bill (S. 2284) for the organization, improvement, and maintenance of the National Zoological Park;

A bill (S. 3026) to create a customs district of the Territory of Arizona;

A bill (H. R. 164) to increase the limit of cost of the erection of the public building at Wilmington, Del.;

A bill (H. R. 8250) to amend an act entitled "An act authorizing the construction of a high wagon-bridge across the Missouri River at or near Sioux City, Iowa," approved March 2, 1889; and

A joint resolution (H. Res. 14) authorizing the use and improvement of Castle Island, in Boston Harbor.



## PRE-EMPTION CASES IN THE NEW STATES.

Mr. MOODY. If the morning business is concluded, I ask the Senate to proceed to the consideration of Senate bill 3082, which was passed over temporarily.

The VICE-PRESIDENT. Is there further morning business? If not, that order is closed, and the Calendar, under Rule VIII, is in order.

Mr. COCKRELL. I call for the Calendar.

The VICE-PRESIDENT. The regular order is demanded. The first bill on the Calendar will be stated.

The CHIEF CLERK. A bill (S. 2140) authorizing the Secretary of the Interior to negotiate with the Turtle Mountain band of Chippewa Indians for the cession of their reservation.

Mr. MOODY. The bill I wish to call up is in order.

The VICE-PRESIDENT. What was the request made by the Senator from South Dakota? The Chair did not understand the Senator.

Mr. MOODY. I ask the Senate to proceed to the consideration of Senate bill 3082, which takes precedence of the one just stated.

Mr. PADDOCK. Why does it take precedence?

Mr. INGALLS. It was passed over without prejudice.

Mr. COCKRELL. The bill was passed over without losing its place on the Calendar. All I intended was that the regular order might be laid before the Senate and then anything that was in order might come in. The bill the Senator from South Dakota calls up is in order.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 3082) to validate pre-emption filings and pre-emption proofs made within the States of North and South Dakota, Montana, and Washington.

The bill was reported by the Committee on Public Lands with an amendment, in line 5, after the word "made," to insert the words "and all proceedings thereon;" so as to make the bill read:

That all pre-emption and declaratory statements and all pre-emption proofs heretofore made or that may hereafter be made and all proceedings thereon within the States of North and South Dakota, Montana, and Washington shall have the same force and effect as though the clause "which act is hereby repealed as to the States provided for by this act" had not been inserted and enacted in said section 17 of said act of February 22, A. D. 1889, and as though said clause had read "which section is hereby repealed as to the States provided for by this act."

The amendment was agreed to.

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

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

The preamble was agreed to.

The title was amended so as to read: "A bill to validate pre-emption filings and pre-emption proofs made within the States of North and South Dakota, Montana, and Washington, in certain cases."

## WITHDRAWAL OF PAPERS.

On motion of Mr. PADDOCK, it was

Ordered, That John Sechler have leave to withdraw his papers from the files of the Senate.

## TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS.

The VICE-PRESIDENT. The Calendar will now be proceeded with under Rule VIII.

The bill (S. 2140) authorizing the Secretary of the Interior to negotiate with the Turtle Mountain band of Chippewa Indians for the cession of their reservation was announced as first in order, and was considered as in Committee of the Whole.

The bill was reported from the Committee on Indian Affairs with amendments: In line 6, after the word "right," to strike out "title;" in line 7, after the word "land," to strike out "occupied by them;" in line 8, after the word "State," to insert "reserved by Executive order of June 3, 1884;" in line 15, after the word "purpose," to insert "and make such improvements upon the lands acquired in Minnesota as shall be deemed necessary;" and in line 22, before the word "thousand," to strike out "ten" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to negotiate with the Turtle Mountain band of Chippewa Indians, in North Dakota, for the cession and relinquishment to the United States of whatever right or interest they may have in and to the reservation of two townships of land in said State, reserved by Executive order of June 3, 1884, and for their removal to and settlement upon the White Earth reservation, or any other lands reserved for the Chippewa Indians in the State of Minnesota; also to obtain the consent of the Chippewa Indians in Minnesota to the settlement of the said Turtle Mountain Chippewa Indians on the reservation lands of the Chippewas in Minnesota if they hold sufficient land for that purpose, and make such improvements upon the lands acquired in Minnesota as shall be deemed necessary: Provided, That the Secretary of the Interior shall cause a careful census of the said Turtle Mountain Chippewa Indians upon the Turtle Mountain reservation to be taken, to include only those who are entitled to governmental care and to participate in the proposed negotiations; for which purpose the sum of \$20,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

The amendments were agreed to.

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

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

## S. C. REID'S BATTLE SWORD.

Mr. VOORHEES. On a former occasion Order of Business 535 was passed over without prejudice, and I ask that it be called up and considered at this time.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. 39) accepting the donation of the battle sword of the late Capt. Samuel Chester Reid, tendered as a gift by his son, Sam C. Reid, and providing for the presentation to him by Congress of a gold medal.

The VICE-PRESIDENT. The joint resolution has heretofore been read at length.

Mr. VOORHEES. Mr. President, before a vote is taken on the joint resolution just read, I venture to ask a few moments in which to tell the story of the sword which it tenders for our acceptance.

When the last year of the war between the United States and Great Britain, the year 1814, was drawing to a close, it was clouded and darkened by certain events most galling to the pride and honor of the American people. Although the oceans and the lakes had been lit up by the glories of Perry, Decatur, Hull, Porter, Truxtun, and other like heroic spirits, whose names were not born to die, and although Lundy's Lane, Chippewa, and the Thames stood to our credit on land, yet, if a treaty of peace had been signed before this sword was drawn in battle, it would have been, on the part of the United States, a peace ranking and sore with a sense of humiliation and national dishonor.

On the 24th day of August, 1814, Washington City was ignominiously surrendered to an invading British force, and British troops marched through these streets using the torch where they found no use for their bayonets. How inconceivably strange all this seems now! This national Capital, which the combined powers of Europe could not now successfully assail, was, within the lifetime of some who hear me, given up to desecration and vandalism after a mere skirmish in its defense, in which less than eighty men were killed and wounded. This event, to my mind, is the ugliest stain to be found in the history of the American Government. To recall it even now fires the blood and quickens the heart with patriotic shame and resentment.

With what feelings of mortification and rage the American people learned at the date of the disaster that their flag had been pulled down by a foreign foe in their own Capital, and the Capitol itself burned, is amply shown in the publications and history of those times. The Secretary of War, General Armstrong, was driven to resign his place in Mr. Madison's cabinet; Congress ordered investigations; the press laid the lash indiscriminately on every one in official station; but none of these things brought any comfort to the deep sense of wounded honor or appeased the national desire and longing for some signal and splendid blow of retaliation.

To add to the indignation and bitterness of the American people over the fall of their Capital and the barbarous use of the torch, the Government of Great Britain exulted enormously, "caused the Tower guns to be fired in honor of Ross's victory; thanked the actors through Parliament; decreed a monument to that general in Westminster Abbey at his death; and, making additions to his armorial bearings, authorized his descendants forever to style themselves 'Ross of Bladensburgh.'"

Lossing, in one of his notes to his Field-Book of the War of 1812, says:

The London Times, then, as now, the exponent of the principles of the ruling classes in England, and the bitter foe of the American people, gloried over the destruction of the public buildings and the expulsion of the President and Cabinet from the Capital, and indulged in exulting prophecies of the speedy disappearance of the great Republic in the West. "That ill-organized association," said the Times, "is on the eve of dissolution, and the world is speedily to be delivered of the mischievous example of the existence of a government founded on democratic rebellion." In long afteryears, when Cockburn died at the age of eighty-two, the Times lauded him chiefly for his marauding exploits in this country and his "splendid achievement" in firing our national Capital.

But the designs of England at that time against the United States were still more extensive and destructive than even the capture of Washington City indicated. Napoleon had fallen from the throne of France and for the time being was caged at Elba. The flower of the British army was thus released from duty on European battle-fields, and a descent with fire and sword all along our Atlantic seaboard was organized and put into bold and audacious operation.

Pursuant to this daring scheme of wholesale conquest and plunder of American cities, a rendezvous was appointed at the Island of Jamaica for the concentration of British forces with which to seize New Orleans. On the 6th of October, Admiral Cockburn, fresh from the incendiarism of the Capital and swollen with pride over his new laurels, sailed out of Chesapeake Bay on his way to join the transports and troop-ships of Keane and Pakenham, then in Negril Bay, Jamaica, awaiting re-enforcements with which to ravage the coasts of Louisiana and despoil the Crescent City of her beauty and her glory.

But while this threatening muster of veteran British regiments was taking place almost in sight of our shores, and yet all unknown to our people, the spirit of retribution was aroused in American hearts on land and sea, and events were transpiring in distant parts of the world with such subsequent relations to each other as to indicate the presence of a divinity which shapes the destinies of men and of nations.

On the 9th day of September, in this eventful year of 1814, a small



brig of only 240 tons, owned by private parties, carrying seven guns, as a privateersman, with a crew of but ninety men and officers all told, sailed out of New York Harbor on a very swift keel, ran the blockade of British frigates off Sandy Hook, and boldly put to sea for the honor of the American name.

It was the famous brig General Armstrong, commanded by Samuel Chester Reid. The career of this vessel was meteoric, brief, but full of glory. Within three weeks after leaving New York the General Armstrong was committed to immortal fame alongside the Bon Homme Richard, the Essex, and the Ironsides, and Captain Reid took rank with the foremost warriors known to the annals of the sea.

On the evening of the 26th day of September the Armstrong lay at anchor in the neutral waters of Portugal, in the Bay of Fayal, and in that condition was discovered by a British squadron consisting of the Plantagenet, a ship of the line of 74 guns, the frigate Rota of 44 guns, and the brig Carnation of 18 guns, these vessels carrying 2,000 men and officers, and commanded by Commodore Lloyd, on his way to meet Admiral Cochrane at the rendezvous in Jamaica with Keane and Pakenham. This formidable naval force was a part of the extensive expedition against New Orleans, and Commodore Lloyd thought to halt for a moment, pick up the Armstrong, and carry her along as an enforced ally for the destruction and dishonor of her own countrymen.

With the characteristic disregard of his government for the rights of weaker powers, the British commander without hesitation invaded the neutrality of Portugal, launched four armed boats containing one hundred and sixty men, and by the light of a full moon at 9 o'clock at night attacked the little motionless American brig, with full confidence in an easy and immediate victory. The occurrences of that memorable and glorious night from this point of time forward were told a few days later by a fair-minded Englishman who witnessed them from the walls of the town which overlooked the bay. In a letter dated October 15, 1814, to William Cobbett, of London, the following account is given:

\* \* \* The authorities all considered the American privateer perfectly secure, and that His Majesty's officers were too well acquainted with the respect due to a neutral port to molest her; but, to the great surprise of every one, about 9 in the evening four boats were dispatched, armed and manned, from His Majesty's ships for the purpose of cutting her out. It being about full moon, the night perfectly clear and calm, we could see every movement made. The boats approached with rapidity toward her, when, it appears, the captain of the privateer hailed them and told them to keep off several times. They, notwithstanding, pushed on, and were in the act of boarding before any defense was made by the privateer. A warm contest ensued on both sides. The boats were finally repulsed with great loss.

After the first attack all the inhabitants were gathered about the walls, expecting a renewal of the fight. At midnight fourteen launches were discovered to be coming in rotation for the purpose. When they got within gunshot, a tremendous and effectual discharge was made from the privateer, which threw the boats into confusion. They now returned a spirited fire, but the privateer kept up so continual a discharge it was almost impossible for the boats to make any progress. They finally succeeded, after immense loss, to get alongside of her, and attempted to board at every quarter, cheered by the officers with a shout of "No quarter," which we could distinctly hear, as well as their shrieks and cries. The termination was near about a total massacre. Three of the boats were sunk, and but one poor solitary officer escaped death in a boat that contained fifty souls. He was wounded. The Americans fought with great firmness. Some of the boats were left without a single man to row them; others with three and four. The most that any one returned with was about ten. Several boats floated ashore full of dead bodies. With great reluctance I state that they were manned with picked men and commanded by the first, second, third, and fourth lieutenants of the Plantagenet, first, second, third, and fourth ditto of the frigate, and the first officer of the brig, together with a great number of midshipmen.

Our whole force exceeded 400 men. But three officers escaped, two of whom are wounded. This bloody and unfortunate contest lasted about forty minutes. Nothing more was attempted until daylight next morning, when the Carnation hauled in alongside and engaged her. The privateer still continued to make a most gallant defense. These veterans reminded me of Lawrence's dying words on the Chesapeake, "Don't give up the ship." The Carnation lost one of her topmasts, and her yards were shot away. She was much cut up in her rigging, and received several shots in her hull. This obliged her to haul off to repair and to cease firing. The Americans now finding their principal gun (Long Tom) and several others dismounted, deemed it folly to think of saving her against so superior a force. They therefore scuttled her and went ashore. Two boats' crews were soon after dispatched from our vessels, which went on board, took out some provisions, and set her on fire.

For three days after we were employed in burying the dead that were washed on shore in the surf.

After burning the privateer Commodore Lloyd made a demand on the governor to deliver up the Americans as his prisoners, which the governor refused. He threatened to send 500 men on shore and take them by force. The Americans immediately retired, with their arms, to an old Gothic convent, knocked away the adjoining draw-bridge, and determined to defend themselves to the last. The commodore, however, thought better than to send his men.

Lossing, in his excellent history of the war of 1812, puts the forces engaged in attacking the Armstrong during the night at over 600 and their losses in killed and wounded at over 300. It will thus be seen that the Americans were attacked by seven times their own number; that they killed and wounded more than three times as many as they carried on their entire muster-roll; that they beat the Carnation, an 18-gun brig, in open fight the next morning, and then retired to the shore in the face of such unparalleled odds with a loss to themselves of but 2 men killed and 7 wounded. And how the American heart swells with pride at the manner in which that heroic band, now reduced to about 80 men, bore themselves on the land amongst strangers in a foreign country, beyond the reach of aid, and with all the world and future history looking on the wonderful scene.

They had heard that cry of murder, the cry of "No quarter," from their ferocious assailants the night before, and now they heard of the

demand of the British commodore on the Portuguese authorities for their surrender as prisoners. When this demand was refused, Captain Reid and his men were informed that a force of 500 men from the British squadron would be sent ashore at once for their capture and destruction. How did they hear this dread announcement? They could have scattered and hid in the adjacent hills until the danger was over; they could have dissolved as a body, and disappeared from the approach of an armed force, each one individually for himself, thus escaping the threatened doom.

No such thoughts as these, however, shook their stanch souls; no panic for a single moment unsteadied their iron nerves. With coolness and in perfect order Captain Reid led his powder and blood stained company through the streets of Fayal to an old Gothic convent, cut away the draw-bridge that led to it, and there, grim and tired from the dreadful work of the night before, they waited, armed to the teeth, to sell their lives at a terrible cost to the enemy. But the enemy reconsidered and came not. For once the English bull-dog shrank from his quarry, insignificant in size as it was, but now at deadly bay with no thought but to die before the world for the honor of American manhood and to copiously soak that neutral soil with the insolent blood of their foes.

Instead of inviting another massacre by attacking the Gothic convent, the British commander spent the next three days "in burying the dead that were washed on shore in the surf." We are informed, also, that two sloops of war, the Thais and the Calypso, which came up some days after the fight, were sent back to England carrying the wounded. The whole affair detained Commodore Lloyd and his squadron more than ten days at Fayal, and as a consequence delayed the fleet under Admiral Cochrane at Jamaica at least three weeks beyond its appointed time to sail with the army of Pakenham in its descent on Louisiana. These are grave and established facts, and but for them American history would not read as it does now and the lines of our map would perhaps be different.

When Lloyd's squadron arrived at Jamaica in its crippled condition he was loaded with bitter reproaches by Cochrane, Pakenham, and Keane; and well he might have been, in view of the expedition before them. General Jackson had scented danger in the tainted gales from the West Indies, and, with the prescience of great military genius, decided that the impending blow was aimed at New Orleans. He reached that city on the 2d of December; the British army landed a few miles below on the 22d, just twenty days later. But for the terrific injury inflicted on Lloyd's forces at Fayal the British would have reached New Orleans as soon, if not a day or two sooner than General Jackson. Had this happened, that city would have fallen without a blow. Speaking of Jackson's arrival there December 2, Lossing says:

He found the city utterly defenseless and the councils of the people distracted by petty factions. The patriotic Governor Claiborne had called the Legislature together as early as the 5th of October. The members were divided into several factions, and there was neither union nor harmony nor confidence to be found. The people, alarmed and distrustful, complained of the Legislature; that body in turn complained of the governor, and Claiborne complained of both the Legislature and the people. Money and credit were equally wanting, and arms and ammunition were very scarce.

There was no effective naval force in the adjacent waters; and only two small militia regiments and a weak battalion of uniformed volunteers, commanded by Major Planché, a gallant Creole, constituted the military force of the city. The store-houses were filled with valuable merchandise, and it would be natural for the owners to prefer the surrender of the city at once to a seemingly invincible foe to incurring the risk of the destruction of their property by a resistance that should invite a fiery bombardment. In every aspect the situation was most gloomy when Jackson arrived, worn down with sickness, fatigue, and anxiety.

Sir, I am not about to dwell on the campaign of New Orleans. What occurred there after Jackson entered the city has been written in imperishable lines of light on the scroll of eternal fame and needs no recital here. It is my simple task on this occasion to show that the sword now offered for the acceptance of the Government so guarded the passage-ways of the ocean and so crippled and retarded the enemy that time was gained by which General Jackson prepared for and won the immortal victory at New Orleans. No such battle would have been fought, no such victory won, but for the stubborn and invincible courage of Captain Reid and his crew at Fayal.

General Jackson himself in afteryears was in the habit of saying that "to the battle of the little brig General Armstrong in sustaining the honor of the American flag," he was indebted for his success in defending New Orleans. And these two actions, thus linked together, the battle of Fayal on the 26th of September, 1814, and the battle of New Orleans on the 8th of January, 1815, wiped every stain from the escutcheon of our arms, caused Bladensburgh to be almost forgotten, filled downcast hearts with joy and exultation, and closed the war of 1812 on the American side with a sunburst of undying glory.

Charles Sumner is quoted as praising the extraordinary politeness of a cultivated Englishman who, while passing with him through Lafayette Square in this city, made no comment on the equestrian statue of Jackson as a work of art, and, indeed, feigned not to see the old hero in bronze at all. It is well known that the presence of General Jackson was never enjoyed by Englishmen, and if a statue of Captain Reid was erected, as it ought to be, in the vicinity of Jackson, it is probable no Englishman would ever enter that square again.



Samuel Chester Reid was born at Norwich, Conn., on the 25th of August, 1783. He went to sea at eleven years of age, and afterwards became a midshipman under Truxtun. He was thirty-one years of age when he electrified his countrymen and the whole civilized world by the splendor of his courage and conduct in the Bay of Faval. Amongst all the gallant men furnished by New England or by the entire Republic to naval warfare none bear a name with prouder luster or adorned with brighter honor. Sir, it is painful in the extreme to be compelled to add that none have been treated by the Government they fought for with greater injustice, neglect, and ingratitude.

The Senator from Ohio [Mr. SHERMAN], when this question came up a few days ago, remarked that the Government had already treated Captain Reid very generously and liberally. The facts of history prove that statement very far from correct. Captain Reid died in 1861, poor. For forty-seven years he had sought from his Government the simple payment of his private losses on the Armstrong and the value of the brig to her private owners. He sought in vain, and died without receiving a dollar.

Some twenty years later a bill passed Congress paying the assessed value of the immortal vessel, without interest, and paying for the clothing and personal losses of her officers and seamen, all of whom were doubtless dead by that time. If these humiliating facts constitute generous and liberal treatment by the Government towards one who achieved in its service a name as deathless as the stars of the sky, then I have much indeed yet to learn.

Sir, we will accept this sword, and place it where the youth of America can see it for all time to come. If they shall find here and there on this fine old Toledo blade a speck of red rust it will remind them that once it dripped from point to hilt with the blood of its country's enemies; that before it, in the hands of Captain Reid, fell the first lieutenant of the Plantagenet while leading a charge of boarders against the Armstrong. No relic in the custody of this Government will teach future generations loftier lessons of duty, patriotism, manhood, and courage than the sword of Capt. Samuel Chester Reid.

As to the medal in memory and in honor of his sea fight of Faval and its far-reaching consequences, as provided for in the resolution under discussion, nothing of the kind was ever more merited in American history. A medal was granted by Congress to John Paul Jones in his lifetime for the victory of the Bon Homme Richard over the Serapis, and from that day to this no token of this kind was ever more worthily bestowed for achievements on the ocean than this will be when voted to the memory of the commander of the brig General Armstrong.

This much I have said, Mr. President, in vindication of the committee which has done me the honor to instruct me to present this matter for the consideration and action of the Senate.

Mr. SHERMAN. Mr. President, it is a very ungracious task to oppose a proposition of this kind, but the measure itself is an attack upon the illustrious race of men who, from 1815 to this time, seem to have been ignorant of this unparalleled act of bravery and devotion to duty.

If the service rendered in resisting the capture of a privateer at the close of the war of 1812 was so illustrious and unparalleled, to use the language of the joint resolution, why was not it recognized by the great men who shared in the trials of that war, its triumphs and its defeats? Why was it that General Jackson, who had so high appreciation of this act, did not himself call for some compensation and some recognition of it? Why did he not (as I believe he did) insist on Portugal paying the value of this vessel, but why did he not also present the matter to the great men who lived before and after him?

Mr. President, it is true that this was a gallant act by Captain Reid. God forbid that I should say one word against or take one single laurel which the eloquence of my friend from Indiana [Mr. VOORHEES] has gathered around his head. But after all it was the defense of his own vessel, a privateer that went out like other privateers to do harm to the enemy, expecting also to gain profit by gallant services. We had no naval vessels at that time sufficient in power or number to compete with the navy of England, but we had a great number of privateers, many of which performed heroic achievements in the progress of the war of 1812, but none of them have been selected for this very remarkable demonstration.

This gentleman or his heirs have been paid the value of the vessel, together with that of the personal property attached to the vessel. Why he was not paid before the payment was made I do not know, and whether he ever presented a claim or not I do not know. It is probable that he did, but the Senator did not tell us. If Captain Reid had besieged Congress, or sought Congress, or petitioned Congress in any way to pay this money or to recognize these services, it would have been one thing. Then, if the Government refused after a long lapse of time, we could make good the defection of the Government. It does not appear that any such proposition was made. The captain died full of honors, having lived some forty or more years after this unparalleled contest. He died full of honors, and this feat of his had been recognized in our history, and it was also recognized in the efforts of the Government to compel Portugal to pay us for permitting a violation of the neutrality laws in her ports to our detriment.

But now, is it wise, after this lapse of time, to make this extraordinary movement, after having paid the money, to issue a medal which

is only granted by the Government of the United States on rare occasions? It seems to me not. If the sword is of value—and no doubt this sword ought to be preserved among the relics in the Smithsonian Institution or in the National Museum—whatever its value is in money or in glory, pay for it and put it among the chosen relics of the heroism of American citizens. But it seems to me that this medal of honor, granted only for illustrious services, like those rendered by General Grant and a few others, should not be awarded in this instance. There are not many medals awarded by the Government of the United States, and it does seem to me that this is not a case for such a remarkable act.

Besides, it is not to be given to Captain Reid. Captain Reid is dead. His son is living; but has he rendered any service that should make it specially important to recognize his services? Is he the illustrious son of an illustrious sire, that we must therefore give him this reward for the services of his father? It seems to me there is no example of this kind in history, or at least I know of none. If there is any, the precedent ought to be furnished to us. Why, sir, there are many men in America whose fathers were illustrious for great and brilliant services in saving their country in fighting foreign enemies, and for doing more probably than Captain Reid was able to do.

The VICE-PRESIDENT. The Senator's five minutes have expired.

Mr. SHERMAN. All right; I am through.

Mr. VOORHEES. Mr. President, knowing that we were to be operating under the five-minute rule, I made my remarks as brief as possible, and regretted that I had to occupy even as much time as I did.

Mr. SHERMAN. I hope if the rule is enforced against me it will be enforced against all others.

Mr. VOORHEES. I have no objection to the Senator having all the time he wishes. I never seek to enforce rules of that kind.

Mr. CALL. I ask unanimous consent that the Senator may be permitted to proceed.

Mr. VOORHEES. If the Senator from Ohio wishes to go on I will gladly yield.

Mr. SHERMAN. I would rather stand by the rule.

Mr. TELLER. If this case requires more than five minutes for a speech, I think it had better go over.

Mr. VOORHEES. No, it will be disposed of directly. I only wanted to explain to the Senator from Ohio the reason why I did not speak of the diplomatic history of this claim.

The Senator from Ohio charges me with not informing the Senate of what had been done about it. It was a pending question of negotiation between this country and Portugal and between Portugal and Great Britain all the time that Captain Reid lived, and up to the time when the claim was paid here, and some of the most eloquent speeches ever made in this body were made on this claim and in recognition of Captain Reid's remarkable services, and had I the time I could reproduce them.

I am surprised at the Senator from Ohio saying that he was not aware that Captain Reid ever had made a claim. Such men as William H. Seward and others of like note I recall as having discussed it most eloquently and ably, and some time in 1852, or 1853 perhaps it was, we agreed to an arbitration between this country and Portugal, and Louis Napoleon, then Emperor of France, was chosen as arbitrator; but for the want of a presentation of more than one-half of our claim we got a decision against us, and Captain Reid, with great modesty, for he was modest as he was brave and meritorious, held the claim in abeyance waiting for the Government to establish the claim on Portugal and Portugal to establish it on Great Britain. At last Congress rose up, and after a splendid debate on the report, contained in the executive document which is on file, and extracts from it given, and fifty pages of diplomatic correspondence there shown—after all that Congress at last ordered the claim to be paid, and, as I said, paid the value of the brig after about sixty-seven years, without interest, and paid the losses to the seamen after they were all dead.

Mr. EVARTS. Mr. President, I have no need to add anything to the eloquent homage paid to the great fame of Captain Reid. Every word that the Senator from Indiana [Mr. VOORHEES] has said is as truthful as it was eloquent. The Committee on the Library have been of opinion that this illustrious act, honorable to the United States, should be signalized by a medal struck in honor of the event, and it has no relation whatever to the consideration of taking the form either of gratuity or of recompense to the family of Captain Reid. The sword is offered us and the matter brought thus to our attention, and we, with shame and remorse, if I do not use too strong words, feel that it has been a shame and a disgrace to the people of this country that a medal has never been struck in honor of an event so glorious to the prowess not only of our great captain in this battle, but honorable to human nature.

There is not to be found in the classic or in modern history any stronger instance of personal prowess that did in modern times what used to be done under the old warfare of personal prowess. But for Captain Reid that fight would not have been made; and but for Captain Reid that battle would not have been won. So strong is this simile under most diverse circumstances that it may be said of Captain Reid, as was said of Horatius at the bridge, "If he had not kept the bridge, who could have saved the town?" and Rome was "the town," and "the bridge" was across the Tiber. This battle in the port of



Fayal was the bridge that he kept that saved the town of New Orleans and saved the honor of this country.

I hope, sir, without dissent I would say but that I have heard dissent, this resolution will be passed.

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

Mr. MANDERSON. I feel like demanding a yea-and-nay vote on the passage of this joint resolution, and I do it with a good deal of reluctance. The simple ground upon which I would oppose the passage of the joint resolution in its present form is because this proud distinction of the thanks of Congress, the award of a medal of honor, is to be given to a man who has achieved nothing in his own right and simply has this claim by heredity. I would not oppose this resolution if it proposed a recognition of the distinguished services of Captain Reid, deceased, and if it paid in something besides a gold medal to be awarded by Congress for this donation. The son of Captain Reid proposes to turn over this sword, which belonged to his father—

Mr. VOORHEES. In talking with Mr. Reid, the descendant of Captain Reid, he told me it was a matter not at all of any personal concern to him, and I feel warranted in saying that if the Senator from Nebraska prefers to amend the joint resolution so that this medal shall be placed in the archives of the Navy Department in honor of this great event, there will be no objection.

This resolution does not carry the thanks of Congress at all, but simply strikes a medal with which to commemorate this event. If what I have suggested is satisfactory to the Senator, he can move to amend the resolution in that way.

Mr. MANDERSON. I do not object to a donation to this son of a worthy sire.

Mr. VOORHEES. It is not in that sense. I do not want it that way myself.

Mr. MANDERSON. But my objection is that a medal of honor should not be awarded to him when he has done nothing himself to deserve it, and if the resolution is to be left in that form I shall demand the yeas and nays on its passage.

The VICE-PRESIDENT. Does the Senator from Nebraska demand the yeas and nays?

Mr. MANDERSON. I do.

The yeas and nays were ordered.

Mr. EVARTS. It is not too late to make this modification in the resolution.

The VICE-PRESIDENT. It can only be done by unanimous consent.

Mr. VOORHEES. I ask unanimous consent that the Senator from New York may suggest the amendment which he has in mind.

The VICE-PRESIDENT. Is there objection?

Mr. VOORHEES. The Senator from New York is chairman of the committee from which this resolution emanates and perhaps he will propose an amendment.

Mr. EVARTS. The observations of the Senator from Nebraska are apparently in the same sense in which I expressed my views about this transaction. This is a medal to be struck in honor of this great personal prowess and great personal advantage to the country. It does not carry the thanks of Congress. It is striking a medal to be given to the son who has presented this sword. It is not a personal gratification to the son; it was not asked for by him in that sense; but in the form in which the medal is struck it is to be a matter of historical record.

Now we are quite ready, so far as the committee is concerned, to have an amendment made providing that this medal shall be deposited in the archives of the Navy Department, and I move that that amendment be made.

Mr. SHERMAN. Let the amendment be reported.

Mr. EVARTS. I move to strike out that portion which refers to the presentation, and say that "a medal shall be struck at the Mint and deposited in the archives of the Navy Department."

Mr. COCKRELL. With the sword.

Mr. EVARTS. With the sword.

Mr. HAWLEY. I wish to make a correction on this matter. When it was before the Senate a few days ago I made a remark concerning the former appropriation to the heirs of that gallant captain which appears to have been misunderstood by the reporters. Possibly, however, I did not express myself as I intended to do. A large appropriation or a fair appropriation was made to pay them for the destruction of the ship in that famous engagement. My remark was to this effect, as reported: that the money appropriated went to the heirs, who received it with large deductions for services, or something of that sort. I am credibly informed that I was mistaken if that is what I did say, and that Mr. Reid, the son, who has been active in the matter, has never been paid compensation for what he did in securing action upon it, and that the other heirs received their proportion without deduction.

The VICE-PRESIDENT. The amendment will be reported.

Mr. HARRIS. I desire to suggest to the Senator from New York that this resolution provides that the sword shall be deposited in the National Museum. Now, if this medal is to be deposited, as suggested by the Senator from Missouri, I think it eminently proper that the sword should be deposited with it at the same place, and instead of the

Navy Department, let it be provided that the medal shall be deposited in the National Museum.

Mr. EVARTS. I assent to that proposition.

Mr. MANDERSON. I suggest that by unanimous consent these amendments be made, which will reach the object we all seem to have in view: That we strike out of the title of the bill all after the word "Reid," striking out that part which reads "and providing for the presentation to him by Congress of a gold medal;" and in line 8 of section 1 strike out "be presented by Congress to his son, Sam C. Reid," and instead thereof insert the words "to cost;" so as to make the resolution read:

That a gold medal, with suitable devices engraved thereon, to be approved by the Committee on the Library, to cost not to exceed the sum of \$1,000, which is hereby appropriated for this purpose out of any money in the Treasury not otherwise appropriated.

And then, in section 2, line 1, after the word "sword," insert the words "and medal;" so as to read:

That said battle-sword and medal be deposited in the National Museum at Washington, etc.

The VICE-PRESIDENT. The amendment will be stated from the desk.

The CHIEF CLERK. In line 8 of section 1, it is proposed to strike out the words "be presented by Congress to his son, Sam C. Reid" and insert "to cost;" so as to read:

That a gold medal with suitable devices engraved thereon, to be approved by the Committee on the Library, to cost not to exceed the sum of \$1,000, etc.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment of the Senator from Nebraska will be stated.

The CHIEF CLERK. In section 2, line 1, after the word "sword," insert the words "and medal;" so as to read:

That said battle sword and medal be deposited in the National Museum at Washington, etc.

The amendment was agreed to.

Mr. MANDERSON. After the word "dollars," in line 9 of section 1, I move to insert the words "be struck."

The amendment was agreed to.

Mr. HARRIS. Now, let the resolution be read as amended.

The Chief Clerk read the joint resolution, as follows:

*Resolved, etc., That the battle-sword of the late Capt. Samuel Chester Reid is hereby accepted in behalf of the United States, and, as a testimonial and acknowledgment for this valued relic and patriotic gift, that a gold medal with suitable devices engraved thereon, to be approved by the Committee on the Library, at a cost not to exceed the sum of \$1,000, be struck (which is hereby appropriated for this purpose, out of any money in the Treasury not otherwise appropriated).*

*SEC. 2. That said battle-sword and medal be deposited in the National Museum at Washington, and that a copy of these resolutions, signed by the President of the Senate and the Speaker of the House of Representatives, be transmitted to the donor.*

Mr. VEST. It is not a matter of any national importance, but I should like to know what is the use of striking any medal after we get this sword. My understanding of the resolution (and I intend to support it as it came in originally) was that the United States accepted the sword and then this medal was given to the family of this distinguished officer in order that it might be a testimonial of gratitude on the part of the Government to the descendants of Captain Reid. This gentleman has grandchildren and great-grandchildren, I believe, and if a thousand dollars is to be invested in a medal merely to be deposited by the side of the sword, it seems to me to be almost ridiculous. The Government does not need any such medal, and it could only be valuable to the people who are interested and to the heirs, to be preserved by them to the glory of this seaman.

Mr. DAWES. Mr. President, it seems to me that if this is a proper thing to be done at all, it is proper that it should be done in a proper manner. I do not see any particular propriety in making a medal and then hiding it away in the Navy Department or in the National Museum. I think that the proper thing to do, if we do anything, is to present the medal to the family of that distinguished individual whose sword we think it proper to receive at their hands.

Mr. MANDERSON. I should like to ask the Senator which he thinks would be the more secret hiding-place, the pocket of Mr. Reid or the National Museum?

Mr. DAWES. I think the proper place for it would be in the family, among the descendants of the distinguished man who performed this remarkable feat of valor for which it is deemed by the Congress of the United States proper to accept this sword. If it is proper to accept the sword in this formal manner, it is proper to make some mark of distinction that this family may have it and not be required when any reference is made to it to refer to the National Museum with a guide-book. I suggest that if it be deposited there we should provide for striking off a number of copies of the guide-book, so that the people of the United States may know where to find it.

Mr. HALE. The Senator's idea is that the medal which is granted by Congress for the gallant deeds of this man ought to pass to his family. The Senator would not believe, for instance, in buying a ring at a jeweler's and after having paid for it leave it at the jeweler's.

Mr. DAWES. I do not know about this thing. The Senator from



Maine may have his view of what would be most acceptable to this family.

Mr. HALE. I am in accord with the Senator.

Mr. DAWES. I do not know; it only struck me that if the family are disposed to present to the United States the sword, which is worth everything to them, and the United States think this is a relic worthy of acceptance from the family, the United States ought to give them a receipt in full for it or something of that kind; but to strike off a medal in commemoration of this great event, on the occasion of receiving the sword from the family, and then to put the medal away without reference to the family, is a thing which seemed to me to be rather peculiar. I may rather say it struck me as a little ungracious. If I were one of the family I should say I was sorry I did it.

Mr. HALE. I agree with the Senator fully. I think this medal granted by Congress in commemoration of this gallant act ought to pass to the family of this gallant man, and not to so pass it would be something like buying a ring at a jeweler's, paying for it, and then leaving it at the jeweler's. It ought to be in the hands of the man if living, or his family if he be dead.

Mr. PLUMB. That is all the more important because we are not giving this medal on account of the original act of valor performed by the ancestor, but because this man has been gracious enough to give us a sword. There is not a thing in this resolution which refers to an act of valor. That whole preamble can be struck out without marring the harmony of this legislative structure.

Mr. HALE. The preamble is a mere recital.

Mr. PLUMB. That is true. It recites that whereas somebody has been accidentally or otherwise in the possession of a valuable sword, a sword which was used on a historical occasion, and because he not being able to dispose of it elsewhere, or for other and better reasons, proposes to give it to Congress, we propose to give him a medal. I must say that reminds me a little of the performance of the Pirates of Penzance, where the major-general claims that his ancestors bore that title because he purchased them. He does not pretend to say whose ancestors they were, but he is entirely certain whose ancestors they are because his check-books show the evidence of his purchase. Here is a man who is the descendant of a glorious sire and he has a sword in his possession which he and the Senator from Indiana and others think the Government ought to have. Now, we are not to give a medal because of the act of valor of which that sword is the evidence—

Mr. DAWES. What are we to give it for?

Mr. PLUMB. We are to give it to this descendant because he gives us the sword. That is all. As I said, this preamble might be stricken out. Take the language of this extraordinary resolution:

That the battle-sword of the late Capt. Samuel Chester Reid is hereby accepted in behalf of the United States, and, as a testimonial and acknowledgment for this valued relic—

Not for the valued service in which that sword was waving in the air and bathed in gore—

a gold medal with suitable devices, etc.

Shall be issued to whom? Not with inscriptions which will show anything about the valor that was manifested on that sanguinary field, but which shall testify to the virtues in peace of the man who is gracious enough to deliver the sword. That is all there is about it.

If medals of the United States can be had on those terms the United States will be the repository presently of enough that is valuable in that line in the country. Perhaps it is getting them cheap enough. It puts medals, of course, on a rather common basis, I admit, but at the same time it is probably the cheapest way to get these things for a thousand dollars in the shape of a medal struck at the Mint of the United States commemorating not the valor of the man who wore the sword, but simply the civic virtues and the graciousness and generosity of the man who gives it to us. They will be for sale in pawn-shops in this town inside of three or four weeks, and we can get one at half the money it cost the Government to strike it off.

Mr. HARRIS. If the Senate is ready to dispose of this matter, I should be glad to have it done, otherwise I must object if it is going to take further time.

Mr. VOORHEES. Let us dispose of it.

The VICE-PRESIDENT. The question is on the passage of the joint resolution as amended.

Mr. PLATT. I thought the yeas and nays had been called for.

The VICE-PRESIDENT. The joint resolution has been amended since the yeas and nays were called for. Is the demand for the yeas and nays seconded? Those who desire the yeas and nays will rise. [A pause.] There does not seem to be a sufficient number up.

Mr. PLUMB. I move to lay the joint resolution on the table.

Mr. EVARTS. It has passed.

The VICE-PRESIDENT. The question is on the motion made by the Senator from Kansas to lay the joint resolution on the table.

Mr. EVARTS. There was no order for the yeas and nays.

The VICE-PRESIDENT. The demand for the yeas and nays did not seem to be seconded.

Mr. VOORHEES. The Chair announced that the resolution was passed.

Mr. PLUMB. I want an opportunity to vote. I certainly want to vote against the measure.

Mr. VOORHEES. The yeas and nays were called for, and the call was not sustained. I understand this to be the fact. I shall be perfectly candid with the Chair and the Senate. The Senator from Nebraska [Mr. MANDERSON], before he got the bill to suit him, did call for the yeas and nays. Then, upon suggestions made by the Senator from New York and somewhat by myself, the joint resolution was put in its present shape, which was thought to be satisfactory to the Senator from Nebraska, and therefore he has not pressed his call for the yeas and nays, and the joint resolution is now passed, declared so by the Chair.

The VICE-PRESIDENT. The Chair has not announced the passage of the joint resolution.

Mr. MANDERSON. If I can take simply one moment I will say that the joint resolution was not being dressed up to my satisfaction, but, as I understood it, to the satisfaction of the Committee on the Library. The proposition to place the medal in the Navy Department or the National Museum came from the committee, as I understood, and I think it infinitely better than to hand it to this son.

Mr. PLATT. I understood that on the call of the Senator from Nebraska the yeas and nays were ordered on the passage of the joint resolution, and it was so stated by the Chair. Although by unanimous consent the joint resolution was afterwards amended, I did not suppose that that superseded the demand for the yeas and nays. Therefore, I expected to vote on the yeas and nays.

The VICE-PRESIDENT. As the Chair understood, there seemed to be, apparently, unanimous consent that the demand for the yeas and nays should be withdrawn, and the amendments were made to the joint resolution; and the recent call for the yeas and nays did not appear to be seconded. The question is on the motion made by the Senator from Kansas [Mr. PLUMB] to recommit the joint resolution.

Mr. PLUMB. No, Mr. President, I made a motion to lay it on the table, but I will withdraw that motion. I am not disposed to interfere with the establishment of this precedent. There are no heroes, I understand, who now are deserving of medals, but there are relatives of heroes and descendants of heroes of a former and a later period who will come in and of course claim for these relics these priceless things or that were heretofore priceless. I understand the Government of the United States has never issued more than half a dozen medals in all its career. I am in favor of opening the door and making them as popular and as familiar and as plenty as leaves in Vallombrosa.

Mr. PLATT. As it does not appear that this measure is likely to be voted on by yeas and nays, I wish to take this time and opportunity to say that I am not in favor of the joint resolution, and I will state in a word my reason for opposing it.

It seems to me a discrimination as against people who, I think, in the history of this country have been equally deserving of the attention and recognition of Congress, and it refers in the preamble to this act as an act of "unparalleled heroism." I think that is a disparagement of all the heroic men who have gone before and succeeded this captain of this brig. I do not think we ought to make such a discrimination. I think the whole thing is invidious and I am opposed to it.

The VICE-PRESIDENT. The question is on the passage of the joint resolution.

The question being put, there was on a division—ayes 12, noes 26; no quorum voting.

The VICE-PRESIDENT. No quorum has voted, and the roll will be called.

Mr. VOORHEES. I move a call of the Senate.

The VICE-PRESIDENT. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich,	Farwell,	Manderson,	Stewart,
Allen,	Frye,	Mitchell,	Stockbridge,
Allison,	George,	Morrill,	Teller,
Barbour,	Gibson,	Padlock,	Turpie,
Bate,	Hale,	Pasco,	Vest,
Blair,	Hampton,	Pettigrew,	Voorhees,
Call,	Harris,	Platt,	Walthall,
Cockrell,	Hawley,	Pugh,	Washburn,
Coke,	Higgins,	Ransom,	Wilson of Iowa,
Colquitt,	Ingalls,	Reagan,	Wolcott,
Cullom,	Jones of Arkansas,	Sawyer,	
Dawes,	McMillan,	Sherman,	
Evarts,	McPherson,	Spooner,	

The VICE-PRESIDENT. Forty-nine Senators have responded to their names. A quorum is present. The question recurs on the passage of the joint resolution.

Mr. VOORHEES. I ask that the joint resolution may go over, not losing its place on the Calendar.

The VICE-PRESIDENT. The joint resolution will go over.

#### FORT HAYS MILITARY RESERVATION.

Mr. PLUMB. On a former occasion the bill (S. 964) to authorize the Secretary of the Interior to convey to the State of Kansas certain lands therein went over, retaining its place on the Calendar. It is now in order, and I ask that the Senate proceed to its consideration.



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

The VICE-PRESIDENT. The bill has been read at length, and the question is on agreeing to the amendment reported as a substitute by the Committee on Public Lands.

Mr. PLUMB. I am authorized by the committee to offer an amendment to the amendment.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. It is proposed to strike out the proviso at the end of the substitute, in the following words:

*Provided*, That the United States reserves to itself the fee and right forever to resume possession and dispose of the said lands whenever it shall appear that the State of Kansas is not supporting thereon such home.

And in lieu thereof to insert:

And there is likewise granted to said State from said reservation, to be selected by the governor, two and one-half sections of land, to embrace the timber on the reservation, such selections to be made to correspond to the legal subdivisions and to adjoin the first-named tract. Said last-named tract is granted for the purpose and upon condition that the State of Kansas shall make of the same, and maintain thereon, a public park, and shall fully protect from destruction and damage said timber: *Provided*, That the United States reserves to itself the fee and the right forever to resume possession and dispose of the said lands whenever it shall appear that the State of Kansas has ceased to use the same for public purposes.

Sec. 2. All the remainder of said reservation, after said selections have been made, shall be open to settlement under the homestead laws only: *Provided*, That no entry shall embrace more than eighty acres.

So as to make the substitute read:

That there is hereby granted to the State of Kansas the right to occupy, improve, and control for the purposes of a soldiers' home, to be established and maintained thereon by said State, two sections and one-half of the lands embraced within the Fort Hays military reservation, to include the buildings located thereon, and to be selected by the governor of the State of Kansas according to legal subdivisions and contiguous, on condition that said State shall, within two years, establish such home at which provision shall be made for the care and maintenance of officers, soldiers, sailors, and marines who have served in the Army, Navy, or Marine Corps of the United States, their dependent parents, widows, or orphans, and under such rules and regulations as said State may provide; and there is likewise granted to said State from said reservation, etc.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is on agreeing to the amendment of the Senator from Kansas to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

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

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

MOSES PENDERGRASS.

Mr. COCKRELL. On the 21st day of April the Senator from Wisconsin [Mr. SAWYER], from the Committee on Post-Offices and Post-Roads, reported back to the Senate the bill (S. 3513) for the relief of Moses Pendergrass, of Missouri, and as I recollect the entry it was referred to the Committee on Appropriations. The bill ought to have been placed upon the Calendar. It will come immediately after Order of Business 970, and can be placed upon the Calendar as 970½; and I now request that it be placed upon the Calendar at that particular place.

The PRESIDING OFFICER. The Senator from Missouri asks that the Committee on Appropriations be discharged and the bill be placed on the Calendar?

Mr. COCKRELL. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the bill (S. 772) granting a pension to George L. Sanders, having been presented to the President on the 12th instant and not having been returned by him to the House of Congress in which it originated within the ten days prescribed by the Constitution, had become a law without his approval.

ARIZONA FUNDING ACT.

Mr. PLATT. Order of Business 377, Senate bill 1372, was passed over without prejudice because some amendments were proposed or would be offered to the bill. I ask that it may be taken up at this time.

The PRESIDING OFFICER. The Secretary will state the bill.

The SECRETARY. A bill (S. 1372) approving, with amendments, the funding act of Arizona.

Mr. PLATT. There has been a House bill passed which has been reported back with an amendment in the nature of a substitute by the Committee on Territories. It is Order of Business 855, House bill 3365. I ask that the House bill may be considered now instead of the Senate bill.

The PRESIDING OFFICER. The Senator from Connecticut asks the unanimous consent of the Senate that the House bill upon the same subject be considered instead of the Senate bill. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the

bill (H. R. 3365) approving, with amendments, the funding act of Arizona, which had been reported from the Committee on Territories with an amendment, to strike out all after the enacting clause and insert a substitute.

Mr. PLATT. As I propose to ask the Senate to disagree to the amendment reported by the committee and pass the House bill with some trifling amendments, I prefer that the bill as it came from the other House shall be read.

The Secretary read the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the Committee on Territories.

The amendment was rejected.

Mr. PLATT. There are one or two amendments which I am authorized by the committee to suggest and ask to have adopted. On page 1, line 5, after the word "hereby," I move to insert "amended so as to read as follows, and that as amended the same is hereby." The clause will then read:

That the act of the Revised Statutes of Arizona of 1887, known as "Title 31, Funding," be, and is hereby, amended so as to read as follows, and that as amended the same is hereby approved and confirmed.

The amendment was agreed to.

Mr. PLATT. On page 1, line 5, after the word "confirmed," I move to strike out the words "with the following amendments."

The amendment was agreed to.

Mr. PLATT. On page 1, I move to strike out line 7, as follows:

The act as amended shall read as follows.

The amendment was agreed to.

Mr. PLATT. On page 3, line 49, I move to strike out the word "twenty" and insert "fifty;" so as to read:

The principal of said bonds shall be made payable in lawful money of the United States fifty years after the date of their issue.

The amendment was agreed to.

Mr. PLATT. After the word "issue," in line 50, on page 3, I move to strike out the words:

Said Territory reserves the right to redeem at par any of said bonds in their numerical order at any time after ten years after the date thereof.

The amendment was agreed to.

Mr. PLATT. On page 7, line 149, I move to strike out "twenty" and insert "fifty;" so as to read:

And fifty years after such bonds shall have been issued such additional amount shall be levied, etc.

The amendment was agreed to.

Mr. PLATT. On page 8, line 167, I move to add the letter "s" to the word "provision;" so as to read "provisions."

The amendment was agreed to.

Mr. PLATT. On the same page, in line 184, I move to strike out "twenty" and insert "fifty;" so as to read:

Whenever, after the expiration of the fifty years from the date of issuance, etc.

The amendment was agreed to.

Mr. PLATT. On page 12, line 11, I move to add the letter "s" to the word "evidence;" so as to read "evidences."

The amendment was agreed to.

Mr. PLATT. On the same page, line 1, I move to strike out "Sec. 16."

The amendment was agreed to.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. PLATT. I move that the bill (S. 1372) approving, with amendments, the funding act of Arizona be indefinitely postponed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the joint resolution (H. Res. 128) construing part of act of March 2, 1889, making appropriations for the office of the Second Assistant Postmaster-General.

The message also announced that the House had passed the bill (S. 3063) to establish Rockport, in the district of Belfast, Me., as a port of delivery.

The message further announced that the House insisted upon its amendment to the bill (S. 606) to provide for the purchase of a site and the erection of a public building thereon at La Fayette, in the State of Indiana, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MILLIKEN, Mr. POST, and Mr. BANKHEAD managers at the conference on the part of the House.

The message also announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. 7666) making an appropriation to construct a road and



approaches from the city of Alexandria, Va., to the national military cemetery near that city; and

A joint resolution (H. Res. 156) to print 10,000 additional copies of the work known as the "Growth of Industrial Art."

EMMA S. CAMERON.

Mr. SPOONER. I ask the Senate to proceed to the consideration of the next bill on the Calendar, being Senate bill 1127.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1127) to pay Emma S. Cameron, widow of James Cameron, for property taken and used by the Army during the late war.

The PRESIDING OFFICER. The question is upon the amendment reported by the Committee on Claims.

Mr. SPOONER. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment offered by the Senator from Wisconsin will be stated.

Mr. SPOONER. I call the attention of the Senator from Arkansas [Mr. JONES] to the fact that I offer an amendment to the Cameron bill.

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

That the Secretary of War be, and he is hereby, authorized and directed to investigate the claim made against the United States for trees, fences, and buildings alleged to have been taken during the war by the troops of the United States, and used by them for fuel, from the property occupied at the breaking out of the war by James Cameron and known as "Cameron Hill," situated near Chattanooga, Tenn., and to certify to the Secretary of the Treasury the sum, if any, found on such investigation to be equitably due for the fuel so taken from said property and used by the Army; and the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the person or persons whom he shall find lawfully entitled to the same, the sum of money found and certified by the Secretary of War, upon the investigation herein provided for, to be equitably due for such fuel, the said sum when paid to be in full satisfaction and discharge of all claim for compensation in the premises.

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

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to authorize and direct the Secretary of War to investigate the claim made for fuel alleged to have been taken and used by the United States Army during the war from the property near Chattanooga, known as "Cameron Hill," and to provide for the payment thereof."

#### INTERSTATE-COMMERCE COMMISSION.

Mr. CULLOM. I ask leave to call up Order of Business 850, Senate bill 3173, which is a bill of public interest and one that will call for no discussion, I think. It was agreed upon by the Interstate Commerce Committee, and I ask for its passage in the interest of economy. It is an amendment to section 12 of the interstate-commerce act in relation to taking depositions and testimony by the commission. I think it will take but a moment to pass the bill.

Mr. MITCHELL. I would inquire of the Senator if it will consume any time?

Mr. CULLOM. I think none at all.

The PRESIDING OFFICER. The bill will be read, subject to objection.

Mr. CULLOM. I ask for its consideration now because the commission has asked me to give this measure attention for a number of weeks and I have been sitting here waiting to reach it on the Calendar. It is a matter of public importance and economy in saving money to the commission, and I hope it will be taken up.

Mr. JONES, of Arkansas. I hope the Senator will not insist on taking up and passing that bill now.

The PRESIDING OFFICER. The bill will be read by its title for information.

Mr. CULLOM. If there is any discussion I shall not urge it at this time.

The PRESIDING OFFICER. The question is not debatable. The title of the bill will be read.

The CHIEF CLERK. A bill (S. 3173) to amend an act entitled "An act to regulate commerce," approved February 4, 1887.

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

Mr. CULLOM. This is an amendment to section 12 of the act, in relation to the taking of testimony by the commission.

Mr. JONES, of Arkansas. Reserving the right to object, I should like to ask the Senator from Illinois how long it will take to pass the bill.

Mr. CULLOM. It will take no time at all beyond the reading, I think.

Mr. JONES, of Arkansas. How long is the bill?

Mr. CULLOM. Two or three pages, that is all.

Mr. JONES, of Arkansas. I will say that I have no disposition to object to the bill and I will not object; but I think in fairness to other bills on the Calendar when the day is devoted, as it has been done by general consent, to the consideration of the Calendar, we ought to take up the bills in the order in which they come.

Mr. CULLOM. If it were a private measure I would not ask to take it up out of its order.

The PRESIDING OFFICER. The question is not debatable. The bill will be read, subject to objection.

Mr. JONES, of Arkansas. I shall not object.

The bill was read, and the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. MCPHERSON. That seems to me to be a very important bill.

Mr. CULLOM. If the Senator will allow me, I will state that this is the present law except a few paragraphs which have reference to the taking of depositions. The object of it is simply to enable the commission, through the machinery already provided, to take depositions in a case or to make inquiries about cases in New Orleans, or New York, or wherever else, without the necessity of the commission going there; and it is for the purposes of economy. There is nothing in the bill except that. The first part of the bill down to the word "investigation" is the present law, and then there are only three lines in the next paragraph that are not the present law, until you get down to the word "proceeding," on the third page.

Mr. MCPHERSON. May I ask the Senator if it is a bill that has been asked for by the Interstate Commerce Commission?

Mr. CULLOM. The Interstate Commerce Commission have been asking me to give this measure attention and get it passed as early as possible, for the reason that it would enable them to take testimony without delay and with less expense. The bill comes from the Committee on Interstate Commerce, reported unanimously as a bill that ought to be passed in the interest of economy.

Mr. MCPHERSON. It seems to me as though it is a bill that gives the commission a very wide range of subjects that are not really included in the proper and necessary transaction of their business.

Mr. CULLOM. The Senator from New Jersey is mistaken in that respect. The only purpose of it is to enable the commission to take testimony in cases before them and prepare the cases more speedily and with less expense than is necessary now.

Mr. MCPHERSON. I only heard the reading of the bill. I have not the bill before me. If it contains nothing more than what the Senator states, of course I am not going to object.

Mr. CULLOM. That is the purpose of the bill, as every member of the committee will state.

Mr. REAGAN. That is its purpose.

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

#### EXECUTORS OF DONALD M'KAY.

Mr. HIGGINS. The bill (S. 846) for the relief of Nathaniel McKay and the executors of Donald McKay was passed over without prejudice last Saturday, and I ask that it be now taken up.

The VICE-PRESIDENT. The bill will be read.

The Chief Clerk read the bill.

Mr. COCKRELL. Oh, Mr. President, that can not be disposed of to-day. It is just a waste of time to take it up.

Mr. HIGGINS. We might as well start on it, Mr. President.

Mr. PAYNE. I hope we shall pursue the regular order.

Mr. COCKRELL. I object. If the bill is taken up it will have to be taken up under the rule by a yea-and-nay vote.

The VICE-PRESIDENT. Objection is made, and the bill goes over.

Mr. HIGGINS. No; I move that the Senate proceed to the consideration of the bill.

Mr. TELLER. We went into this Saturday Calendar business with the understanding that we would adhere to the Calendar. It is not within the spirit, at least, of the understanding for any Senator to move to take up a bill which is objected to.

Mr. HIGGINS. The understanding that I have, not from other members of the Senate, but otherwise, is that it can not be reached, that a bill of this kind can not be taken up, on any other day. I suppose it is not the intention of the Senate that all bills which are intended for the relief of claimants shall be barred of consideration unless they can be considered by unanimous consent and under the five-minute rule. I therefore hope the Senate will take up the bill.

Mr. FRYE. The Senator from Delaware had better let it go to-day and try it next Saturday.

Mr. HIGGINS. Next Saturday will be just as bad as to-day.

Mr. FRYE. No; you can start in first.

Mr. JONES, of Arkansas. I should like to suggest to the Senator from Delaware that I do not think any progress can be made by taking this case up this afternoon. It certainly can not be disposed of now and nothing will be gained by taking it up. I suggest to him to let the bill lie over until another day.

Mr. PAYNE. I hope the Calendar will be proceeded with in order.

Mr. HIGGINS. Then, with the understanding that I shall call the bill up next Saturday, I withdraw my motion.

The VICE-PRESIDENT. The motion to proceed to the consideration of the bill is withdrawn. The next bill on the Calendar will be proceeded with.



## MOBILE MARINE DOCK COMPANY.

The bill (S. 371) for the relief of the Mobile Marine Dock Company was considered as in Committee of the Whole. It proposes to pay to the Mobile Marine Dock Company, or to its authorized agent or attorney, \$86,202.65, in full payment for the use and occupation of and damages to property taken of that company from the 16th of April to the 15th of November, 1865, inclusive.

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

P. B. SINNOTT.

The bill (S. 632) for the relief of P. B. Sinnott, late Indian agent at Grande Ronde agency, State of Oregon, was considered as in Committee of the Whole. It proposes to refund to P. B. Sinnott, late Indian agent at Grande Ronde agency, Oregon, \$2,146.39, being the amount of two judgments recovered against him and his sureties on his official bonds as such agent by the United States, in the district court for the district of Oregon, on 15th of January, 1886, and which amount was subsequently paid to the United States by Sinnott pending the consideration by Congress of a bill for his relief, and is now covered into the Treasury.

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

ALBERT H. EMERY.

Mr. SPOONER. The next bill on the Calendar is the bill (S. 245) for the relief of Albert H. Emery. The other House has passed a bill which lies on the table, House bill 3538, which I ask may be taken up instead of the bill reported by the Senate Committee on Claims.

The VICE-PRESIDENT. The House bill will be read.

The Secretary read the bill (H. R. 3538) for the relief of Albert H. Emery; and the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. SPOONER. The Senate Committee on Claims, after careful consideration of this claim, reported in favor of the Senate bill, appropriating \$200,000. I move to amend the House bill by striking out the word "fifty," before "thousand," in line 11, and inserting in lieu thereof the words "two hundred."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. In line 11, before the word "thousand," it is proposed to strike out "fifty" and insert "two hundred;" so as to make the bill read:

*Be it enacted, etc.* That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to Albert H. Emery, of Stamford, Conn., in full settlement of all claims, legal or equitable, which he has in any way against the United States on account of the cost of, and the time spent by him, and use of all patents and inventions in designing and constructing the testing machine built and erected by him for the United States, or otherwise in any way on account of said machine, the sum of \$200,000, out of any money in the Treasury not otherwise appropriated, which sum is hereby appropriated and made immediately available therefor. Said machine, together with the full right to use therein of all patents and inventions used in its design and construction, shall belong to the United States.

Mr. COCKRELL. An amendment to the amendment is in order?

The VICE-PRESIDENT. It is in order.

Mr. COCKRELL. I have had occasion heretofore to investigate this case, which has been pending here for a long time. While the amount I shall name is, I think, at least \$50,000 larger than it ought to be, yet I will propose that in lieu of "\$200,000" we insert "\$125,000," and that is a very liberal offer on the part of the Senate.

Mr. SPOONER. I think the amount reported by the Senate Committee is no more than is equitably due to this claimant, but in view of the action of the other House and the history of the measure, that being, I think, the utmost which could be expected to be obtained in the way of legislation, I will accept the amendment proposed by the Senator from Missouri.

The VICE-PRESIDENT. The amendment will be reported as amended.

The CHIEF CLERK. In line 11 it is proposed to strike out "fifty" and insert "one hundred and twenty-five;" so as to read: "the sum of \$125,000."

The VICE-PRESIDENT. The amendment will be considered as agreed to, if there be no objection. The Chair hears none, and the amendment is agreed to.

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

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

The bill was read the third time, and passed.

Mr. SPOONER. I move that the Senate insist upon its amendment to the bill and request the appointment of a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

By unanimous consent, the Vice-President was authorized to appoint the conferees on the part of the Senate; and Mr. SPOONER, Mr. HIGGINS, and Mr. WILSON of Maryland were appointed.

Mr. SPOONER. I move that the bill (S. 245) for the relief of Albert H. Emery be postponed indefinitely.

The motion was agreed to.

## JAMES M. WILLBUR.

Mr. EVARTS. I ask that Order of Business 158, being the bill (S. 829) authorizing the Secretary of the Treasury to adjust and settle the account of James M. Willbur with the United States and to pay said Willbur such sum of money as may be found due him thereon, which was passed over at my request some weeks ago, may be now taken up. The Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Claims with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Treasury is hereby authorized to appoint three competent persons, who shall be duly sworn, to ascertain and report the sum, if any, which in justice and equity ought to be paid James M. Willbur for excess in weight of material and excess in the superficial measurement of illuminated tiling, frames, and supports thereof, placed by said Willbur in and around the New York City post-office and court-house building, beyond what he was required to furnish by his contract therefor with Bartlett, Robbins & Co., such sum to be determined by the prices fixed in said contract, so far as they are applicable. The said persons so appointed shall also ascertain and report any increased or extra expense or cost incurred by said Willbur resulting from any changes and additions made in and to the weight, measurement, and character of said tiling, or in the quantity thereof, from that which was specified in said contract.

SEC. 2. That the Secretary of the Treasury shall, within sixty days after the making of said report, pay to said Willbur such amount as he shall find from such report to be due to him, which sum shall be taken and received by said Willbur in full and final settlement of all and every claim against the United States on said account, and such sum as may be necessary to pay the amount so found due is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. MITCHELL. I am authorized and instructed by the Committee on Claims, reporting this bill, to offer an amendment to the amendment.

The VICE-PRESIDENT. The amendment of the Senator from Oregon to the amendment of the committee will be stated.

The CHIEF CLERK. In the amendment reported by the committee, line 3, after the word "to," it is proposed to insert the following:

Make settlement with James M. Willbur for excess in weight of material and excess in the superficial measurement of illuminated tiling frames and supports thereof placed by said Willbur in, on, and around the New York City post-office and court-house building beyond what he was required to furnish by his contract therefor with Bartlett, Robbins & Co., either upon the report of such excessive weight and superficial measurement furnished by the direction of the Secretary of the Treasury and Senate committee by the experts Solomon J. Fague and Archibald Given, of date April 21, 1886, to the Senate committee and on file with the Senate Committee on Claims; but if not satisfied with the report of such experts the Secretary of the Treasury shall, within thirty days from the passage of this act—

Mr. MITCHELL. Then the rest of the substitute reported by the committee follows.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Oregon to the amendment proposed by the committee.

Mr. SHERMAN. That claim was once settled by the Treasury Department, upon the passage of a bill by Congress, and I supposed that that settlement was final and conclusive. I do not know, but I presume it is the same matter which was pending before the Treasury Department in 1858, 1859, 1860, and along there.

Mr. COCKRELL. Do I understand the Senator from Ohio to say that a bill has once been passed authorizing the Secretary of the Treasury to adjust this claim and that the Secretary of the Treasury did it?

Mr. SHERMAN. I did it myself when I was Secretary of the Treasury. I know this claim. I remember it is a case involving work which was done by a subcontractor. This gentleman was a subcontractor, who undertook to do certain work for the post-office building in New York. My impression is that all that was fairly due this gentleman was allowed and paid him. However, it is not unusual for Congress again to pass another bill to compel another Secretary of the Treasury to allow more. If this leaves it discretionary with the Secretary of the Treasury, I have no objection to it.

Mr. EVARTS. It does.

Mr. MITCHELL. It is all in the hands of the Secretary of the Treasury under this bill.

Mr. SHERMAN. Let the amendment be read again.

The VICE-PRESIDENT. The bill will be read as proposed to be amended.

The Chief Clerk read the bill as proposed to be amended, as follows:

That the Secretary of the Treasury is hereby authorized to make settlement with James M. Willbur for excess of weight in material and excess in the superficial measurement of illuminating tiling frames and supports thereof placed by said Willbur in, on, and around the New York City post-office and court-house building beyond what he was required to furnish by his contract therefor with Bartlett, Robbins & Co., either upon the report of such excessive weight and superficial measurement furnished by the direction of the Secretary of the Treasury and Senate committee by the experts Solomon J. Fague and Archibald Given, of date April 21, 1886, to the Senate committee and on file with the Senate Committee on Claims; but, if not satisfied with the report of such experts, the Secretary of the Treasury shall, within thirty days from the passage of this act, appoint three competent persons, who shall be duly sworn, to ascertain and report the sum, if any, which in justice and equity ought to be paid James M. Willbur for excess in weight of material and excess in the superficial measurement of illuminating tiling, frames, and supports thereof, placed by said Willbur in and around the New York City post-office and court-house building, beyond what he was required to furnish by his contract therefor with Bartlett, Robbins & Co., such sum to be determined by the prices fixed in said contract, so far as they are applicable. The said persons so appointed shall also



ascertain and report any increased or extra expense or cost incurred by said Willbur resulting from any changes and additions made in and to the weight, measurement, and character of said tiling, or in the quantity thereof, from that which was specified in said contract.

SEC. 2. That the Secretary of the Treasury shall, within sixty days after the making of said report, pay to said Willbur such amount as he shall find from such report to be due to him, which sum shall be taken and received by said Willbur in full and final settlement of all and every claim against the United States on said account, and such sum as may be necessary to pay the amount so found due is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. MITCHELL. I want to say just one word in answer to the suggestion of the Senator from Ohio. The original bill, as reported from the committee, provided that a commission of three persons should be appointed by the Secretary of the Treasury to investigate this matter and make a report to the Secretary and then he would pass upon that report. A report having heretofore been made by a body of experts, which is on file in the Treasury Department and also on the files of the Senate, it was thought by the committee that it would be no more than right and nothing wrong about it to authorize the Secretary of the Treasury to take up that report and, if he was satisfied with that, then he could adjudicate this matter on that report. If not satisfied with that, then he appoints three commissioners as provided in the bill. That is the case.

Mr. ALLISON. And pays whatever they allow?

Mr. MITCHELL. And pays whatever they allow.

The VICE-PRESIDENT. The question is on agreeing to the amendment as modified.

The amendment was agreed to.

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

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

Mr. COCKRELL. I do not want to delay action on the bill, but I simply wish to make a statement in regard to it. I think the Senator from Ohio is clearly mistaken in his opinion that Congress ever passed a law authorizing the adjustment of this claim heretofore. I am satisfied of that. I remember years ago this claim was pending in the Committee on Claims when I was a member of it, and I had prepared, or was preparing, a bill to authorize the Secretary of the Treasury to investigate and settle the claim, as it is a question to which no Senator can devote time enough to adjust and settle properly, and therefore I think the Senator is mistaken. I think he was Secretary of the Treasury when the investigation mentioned in the bill was made, and I had the papers that were reported to him before me when I was a member of that committee.

Mr. MITCHELL. That is so. There was an effort made to have it adjudicated in the Department.

Mr. SHERMAN. There was some allowance made to Mr. Willbur. However, as this bill leaves it to the Secretary of the Treasury to pass upon after the examination of experts, I shall not interpose any further objection.

The bill was passed.

The title was amended so as to read: "A bill authorizing the Secretary of the Treasury to adjust and settle the account of James M. Willbur with the United States, and to pay said Willbur such sum of money as he may be justly and equitably entitled to."

#### HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read twice by their titles and referred to the Committee on Pensions:

- A bill (H. R. 1456) granting a pension to Ira E. Smith;
- A bill (H. R. 1670) granting a pension to Sarah Hamilton;
- A bill (H. R. 1672) granting a pension to Margaret P. Minter;
- A bill (H. R. 3574) granting a pension to Mary E. Tipton;
- A bill (H. R. 4038) granting a pension to James Fitzgerald;
- A bill (H. R. 4126) granting a pension to H. G. Church;
- A bill (H. R. 4127) granting a pension to Rhoda Williams;
- A bill (H. R. 4152) granting an increase of pension to Albert Mabb;
- A bill (H. R. 4258) increasing the pension of Francis Gilman;
- A bill (H. R. 4359) granting a pension to Elizabeth Ogden;
- A bill (H. R. 4372) granting a pension to John Dean;
- A bill (H. R. 4968) granting a pension to Elizabeth A. Jones;
- A bill (H. R. 5238) granting a pension to Allen Coons;
- A bill (H. R. 5299) for the relief of Chloe Cooper;
- A bill (H. R. 6296) granting a pension to Samantha Williams;
- A bill (H. R. 7078) granting a pension to Mary B. Stidger; and
- A bill (H. R. 7414) granting a pension to Washington F. Short.

The following bills were severally read twice by their title and referred to the Committee on Military Affairs:

- A bill (H. R. 2106) to remove the charge of desertion against Daniel W. Selleck;
- A bill (H. R. 2511) to relieve Benjamin F. Smith of the charge of desertion;
- A bill (H. R. 4909) for the relief of Henry East; and
- A bill (H. R. 7666) making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national military cemetery near that city.

The joint resolution (H. Res. 156) to print 10,000 additional copies of the work known as the "Growth of Industrial Art" was read twice by its title, and referred to the Committee on Printing.

#### EXECUTIVE SESSION.

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

Mr. HAMPTON. I ask the Senator from Vermont to withdraw that motion for one moment, that I may call up a bill.

Mr. MORRILL. If the bill will take no time I shall not object to its consideration. What does the Senator desire?

Mr. HAMPTON. There is a small bill on the Calendar that refers the claim of a gentleman in Charleston to the Court of Claims, which will take but a minute to pass, and I should like to call it up now.

Mr. MORRILL. I think the Senator had better wait until another meeting of the Senate to do that.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont [Mr. MORRILL] that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eleven minutes spent in executive session the doors were reopened, and (at 3 o'clock and 12 minutes p. m.) the Senate adjourned until Monday, April 28, 1890, at 12 o'clock m.

#### NOMINATIONS.

*Executive nominations received by the Senate the 26th day of April, 1890.*

##### APPRAISER OF MERCHANDISE.

Algernon S. Badger, of Louisiana, to be appraiser of merchandise in the district of New Orleans, in the State of Louisiana, in the place of P. Léonce Bouny, to be removed.

##### ASSISTANT APPRAISER OF MERCHANDISE.

Jacob Shaen, of California, to be assistant appraiser of merchandise in the district of San Francisco, in the State of California, in place of Daniel Z. Yost, to be removed.

##### COLLECTORS OF CUSTOMS.

John R. Mizell, of Florida, to be collector of customs for the district of Pensacola, in the State of Florida, in place of Stephen A. Moreno, to be removed.

James R. Jolley, of Louisiana, to be collector of customs for the district of Teche, in the State of Louisiana, to succeed William T. Carrington, whose term of office has expired by limitation.

John D. Hopkins, of Maine, to be collector of customs for the district of Frenchman's Bay, in the State of Maine, to succeed Erastus Redman, whose term of office will expire by limitation May 4, 1890.

George M. Warren, of Maine, to be collector of customs for the district of Castine, in the State of Maine, to succeed Charles A. Spofford, whose term of office will expire by limitation May 4, 1890.

John Sherry, jr., of New York, to be collector of customs for the district of Sag Harbor, in the State of New York, to succeed Clothier H. Vaughn, whose term of office will expire by limitation May 20, 1890.

##### SURVEYORS OF CUSTOMS.

Thomas H. Saxton, of New York, to be surveyor of customs for the port of Port Jefferson, in the State of New York, to succeed George Frank Bayles, whose term of office has expired by limitation.

Joseph A. Faris, of West Virginia, to be surveyor of customs for the port of Wheeling, in the State of West Virginia, to succeed Alfred C. Egerter, deceased.

##### UNITED STATES MARSHAL.

Jeremiah C. Donahower, of Minnesota, to be marshal of the United States for the district of Minnesota, *vice* W. M. Campbell, whose term will expire May 5, 1890.

##### POSTMASTER.

William T. Webster, to be postmaster at Tallahassee, in the county of Leon and State of Florida, in the place of Edward C. Weeks, resigned.

#### CONFIRMATIONS.

*Executive nominations confirmed by the Senate April 26, 1890.*

##### APPOINTMENT IN THE ARMY.

*To be major-general.*

John C. Frémont, of New York, late major-general United States Army, to be retired.

##### CHIEF-JUSTICE OF ARIZONA.

Henry C. Gooding, of Indiana, to be chief-justice of the supreme court of the Territory of Arizona.

##### INDIAN AGENT.

John B. Catlin, of Stevensville, Mont., to be agent for the Indians at the Blackfeet agency in Montana.

##### POSTMASTERS.

George W. Stetson, to be postmaster at Cambridgeborough, in the county of Crawford and State of Pennsylvania.



Milton T. Donmoyer, to be postmaster at Kutztown, in the county of Berks and State of Pennsylvania.

Thomas Bitting, to be postmaster at Ambler, in the county of Montgomery and State of Pennsylvania.

Bide W. Wilde, to be postmaster at Hazleton, in the county of Luzerne and State of Pennsylvania.

Nathan Wilson, to be postmaster at Downingtown, in the county of Chester and State of Pennsylvania.

## HOUSE OF REPRESENTATIVES.

SATURDAY, April 26, 1890.

The House was called to order at 12 o'clock m. by Mr. BURROWS, who directed the reading of the following communication:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,  
April 25, 1890.

Mr. BURROWS, of Michigan, is hereby appointed Speaker *pro tempore* for April 26.

T. B. REED, Speaker.

Prayer was offered by the Chaplain, Rev. W. H. MILBURN, D. D. The Journal of the proceedings of yesterday was read and approved.

### GROWTH OF INDUSTRIAL ART.

Mr. RICHARDSON. Mr. Speaker, I am instructed by the Committee on Printing to report back a substitute for the concurrent resolution of March 18, referred to the committee.

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

The Clerk read as follows:

Joint resolution (H. Res. 156) to print 10,000 additional copies of the work known as the "Growth of Industrial Art."

*Be it resolved, etc.*, That there be printed 10,000 additional copies of the work known as "Growth of Industrial Art," of which 3,000 copies shall be for the use of the Senate, 6,000 copies for the use of the House of Representatives, and the remaining 1,000 copies to be turned over to the Secretary of the Interior, to be sold by him under the provision of the law "providing for the sale of public documents by said Secretary," approved March 3, 1857. The compiler of said work, Hon. BENJAMIN BUTTERWORTH, having prepared illustrations of several other arts since the same was published, may add them to the work without increased cost.

*Be it further resolved*, That there be appropriated for the purposes of this resolution, out of any money in the Treasury not otherwise appropriated, the sum of \$23,500.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

The SPEAKER *pro tempore*. In the absence of objection, the original concurrent resolution will lie upon the table.

### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed acts and a joint resolution of the following titles:

An act (H. R. 7498) to establish three new land districts in the Territory of Wyoming;

An act (H. R. 8393) to provide for celebrating the four hundredth anniversary of the discovery of America by Christopher Columbus, by holding an international exhibition of arts, industries, manufactures, and the products of the soil, mine, and sea in the city of Chicago, in the State of Illinois;

An act (H. R. 105) in relation to immediate transportation of dutiable goods, amendatory of the act of June 10, 1880;

An act (H. R. 6942) to divide the judicial district of North Dakota;

An act (H. R. 386) to construct a public building at Baton Rouge, La.; and

Joint resolution (H. Res. 155) authorizing the Secretary of War to use rations for the relief of destitute persons in the district overflowed by the Mississippi River and its tributaries, and making an appropriation to relieve the sufferers by said overflow.

The message also announced that the following bills were presented to the President April 14, 1890, and not having been returned by him to the House of Representatives, in which they originated, within the ten days prescribed by the Constitution, they have become laws without his approval:

An act (H. R. 1043) granting a pension to Theresa Herbst; and

An act (H. R. 4840) to increase the pension of William Boone.

### ROCKPORT, ME., A PORT OF DELIVERY.

The SPEAKER *pro tempore* laid before the House the bill (S. 3063) to establish Rockport, in the district of Belfast, Me., as a port of delivery; which was read a first and second time.

Mr. DINGLEY. Mr. Speaker, this bill is identical with a bill reported from the House committee and now on the House Calendar. I ask unanimous consent for the present consideration of the bill.

The SPEAKER *pro tempore*. A bill identical with this has been reported from the House committee and is on the House Calendar.

Mr. BRECKINRIDGE, of Kentucky. Has the bill passed the House? Mr. DINGLEY. No; it has been reported favorably and is on the Calendar.

Mr. BRECKINRIDGE, of Kentucky. I understood from the statement that the bill had passed the House.

The SPEAKER *pro tempore*. It has been reported favorably to the House.

Is there objection to the request of the gentleman from Maine?

There was no objection.

The bill is as follows:

*Be it enacted, etc.*, That Rockport shall be a port of delivery in the district of Belfast, State of Maine.

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

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

The latter motion was agreed to.

The SPEAKER *pro tempore*. In the absence of objection, the bill (H. R. 7705) relating to the same subject will be laid upon the table.

### NATIONAL MILITARY CEMETERY, ALEXANDRIA, VA.

Mr. LEE. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. 7666) making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national military cemetery near that city, and put it upon its passage.

The bill is as follows:

*Be it enacted, etc.*, That the sum of \$7,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of constructing a gravel road and approaches from the city of Alexandria, State of Virginia, to the national military cemetery near that city: *Provided*, That a right of way at least 50 feet wide, or the full width of Wilkesstreet east of Alfred street, in said city of Alexandria, should first be obtained before any money is spent under the appropriation.

There being no objection, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

D. H. MITCHELL.

Mr. MORRILL. I ask unanimous consent to take up for present consideration the bill (H. R. 4367) for the relief of D. H. Mitchell.

Mr. BUTTERWORTH. I will not object if it does not provoke any discussion.

Mr. MORRILL. It will not provoke any discussion; but, if it does, I will withdraw it.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to D. H. Mitchell, out of any moneys in the Treasury not otherwise appropriated, the sum of \$9,250.85, in full satisfaction for 6,416.32 bushels of corn delivered to the assistant quartermaster at Fort Harker, Kansas, during the months of November and December, in the year 1868, and during the months of January, February, March, and April, in the year 1869.

The SPEAKER *pro tempore*. Is there objection?

Mr. RICHARDSON. I would like to inquire whether this bill is on the Private Calendar.

Mr. MORRILL. Mr. Speaker, I would like to make a brief explanation of the bill, and then I think there will be no objection to it.

Mr. RICHARDSON. I have no objection to the bill. We have set apart Friday for the consideration of bills on the Private Calendar, and I shall oppose it if it is a private bill and on the Private Calendar.

Mr. MORRILL. I hope the gentleman will not object. This is a very distressing case. This man for twenty years—

Mr. RICHARDSON. I know there are a great many distressing cases from my section of the country, and they have not been considered on the Fridays that have been set apart for the consideration of bills on the Private Calendar.

Mr. MORRILL. I have not objected to taking up any of those bills Mr. RICHARDSON. Well, every Friday recently has been used without considering bills on the Private Calendar, and I shall object to the consideration of this bill now. I should not object to considering it on Friday.

The SPEAKER *pro tempore*. Objection is made.

### REPAIR OF MAIL-BAGS.

The SPEAKER *pro tempore*. The Chair will lay before the House the joint resolution (H. Res. 128) construing part of act of March 2, 1889, making appropriations for the office of Second Assistant Postmaster-General, with Senate amendments.

The Senate amendments were read, as follows:

In line 19, before the word "be," strike out the word "shall" and insert "may," and in line 20, after the word "funds," insert "heretofore;" so as to read:

*Resolved, etc.*, That such part of the act of March 2, 1889, making appropri-

ations for the office of Second Assistant Postmaster-General as appropriate \$10,000 for the purpose of enabling the Postmaster-General to make a lease of a suitable place in the city of Washington, and to furnish and equip the same with tools, implements, and machinery and other material which may be necessary to repair mail bags and sacks, and mail locks and keys, shall be construed so that the appropriation (until exhausted) shall cover all expense of purchasing tools, implements, and machinery and other material, and that the "other material" mentioned above shall be construed to mean such other material as is necessary to put the building leased for the shops in a suitable condition for repairing the various mail equipments used by the Post-Office Department, and that all other material and machinery found necessary to the successful operation of the repair shops may be purchased and paid for out of the funds heretofore appropriated for the purchase of mail bags and locks."

Mr. BINGHAM. I am directed by the Committee on the Post-Office and Post-Roads to ask the concurrence of the House in the amendments of the Senate. The amendments simply restrict it to the appropriation for the current fiscal year.

The amendments of the Senate were concurred in.

#### ORDER OF BUSINESS.

Mr. BUTTERWORTH. I now move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 9066) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1891, and for other purposes.

#### WITHDRAWAL OF A REPORT.

Mr. STONE, of Kentucky. I rise to make a correction of the Journal or RECORD. On the bill (H. R. 1064) for the relief of Bertrand and Gaudin Cazes there have been two reports made. One was made by mistake. I desire to withdraw the first report, which is report No. 1468, and substitute therefor report No. 1598.

The SPEAKER *pro tempore*. The Chair is informed that that has already been done.

Mr. STONE, of Kentucky. It does not appear in the RECORD, and I would like it to appear, so that there shall be no mistake when the bill comes up for consideration.

The SPEAKER *pro tempore*. The announcement has been made.

#### QUESTION OF PRIVILEGE.

Mr. ALLEN, of Mississippi. Mr. Speaker, before the House goes into committee I rise to a question of personal privilege.

The SPEAKER *pro tempore*. The Chair understands that the gentleman from Mississippi [Mr. ALLEN] rises to a question of personal privilege.

Mr. ALLEN, of Mississippi. Mr. Speaker, I read a special dispatch from the Washington correspondent of the Philadelphia Inquirer, published in that paper on April 23, which is as follows:

He wound up with a vulgar tirade against Senator QUAY, whom he characterized as a thief. Representative CANNON could not stand this assertion, and boldly retorted by pointing out at least six Southern State treasurers who were defaulters. Later in the debate ALLEN charged Senator QUAY with being a defaulter as State treasurer.

In addition to this, Mr. Speaker, the article states that I made charges against the christian character of Postmaster-General Wanamaker.

Now, I wish to read some resolutions passed by the State Republican executive committee of Pennsylvania reflecting on me, which are as follows:

*Resolved*, That the State committee of Pennsylvania recognize in the indecent conduct of Representatives ALLEN and SPINOLA in the National House of Representatives yesterday a more complete development of a plot upon the part of leading Democrats to assail the public and private reputations of the Republican national committee; that the selection of Senator QUAY as the most prominent object in this conspiracy, the outrageous assaults upon his character by leading Democratic newspapers in New York City, and finally the act of Tammany's chief in spreading their scandalous publications upon the records of the House call for the unqualified condemnation of all men who have any regard for reputation and character. The people of Pennsylvania have twice passed upon these charges: In 1885, when, in the face of their presentation, they gave to Senator QUAY, the candidate for State treasurer, the maximum Republican majority, and subsequently, after distinguished and honored services, elected him to the United States Senate with greater unanimity than ever before accompanied the selection of any man for that position.

The extent of his offending is that when, as chairman of the national committee, he prevented a repetition of the frauds which in New York and Brooklyn gave Cleveland a false title to the Presidency in 1884, and the future purpose of the conspiracy is so plain that "he who runs may read." History is repeating itself in the Hall of the National House, where partisan rancor once before did palpable injustice to one of the most distinguished sons of Pennsylvania in the person of General Cameron. The House subsequently expunged a record which was but evidence of its former injustice, and while the record of yesterday was made against its will and under the privilege of a fire-eater from Mississippi and a direct representative of Tammany, we ask the Representatives of the House to see that the character of the national chairman shall not long suffer under this or any other form of assault which those who have now stepped into public view as partisan conspirators may select.

*Resolved*, That the State committee conveys its thanks to the newspapers of Pennsylvania, which have, with one or two unworthy exceptions, wholly discountenanced the publications of the Democratic newspapers of New York. Next to the vote of the people, given twice with unprecedented heartiness in answer to these charges, our newspapers reflect the public sentiment, and through their refusal to encourage any of the methods of this conspiracy show the contempt which all feel who are not chronic revelers in political and private scandals.

It is interesting in this connection to know that although Mr. Findley, the mixer and applier of this dose of whitewash, is at present a banker of Monongahela City, he is in prospectu QUAY'S candidate for State treasurer to succeed Boyer.

Now, Mr. Speaker—

Mr. ATKINSON, of Pennsylvania. Mr. Speaker, I rise to a point of order. This is not a privileged question, I take it, that the gentleman presents to the House.

Mr. SPINOLA. Certainly; he is called a "fire-eater."

The SPEAKER *pro tempore*. The Chair does not know what the gentleman may state hereafter.

Mr. ALLEN, of Mississippi. Yes, sir; I will show that this is a privileged question before I am through.

The SPEAKER *pro tempore*. At the present time it does not seem to be privileged.

Mr. ATKINSON, of Pennsylvania. I think that it is the duty of the gentleman to show in the first instance how it is privileged, and he has not done anything as yet that indicates that it is privileged.

Mr. ALLEN, of Mississippi. Mr. Speaker, now suppose it is charged in a newspaper that I, in my Representative capacity in this House, denounced Senator QUAY as a thief and such is not the fact, have not I the right to get up here and state it? Suppose there are a number of other charges made about things that I did here and that I did not do, have not I the right to make that explanation?

The SPEAKER *pro tempore*. The gentleman from Mississippi will proceed in order.

Mr. ALLEN, of Mississippi. That is what I want to do.

Now, Mr. Speaker, to relieve myself of the unjust reflections cast on me by these publications and to show how untrue they are it is necessary for me to state the facts. I deny the charges and plead *nil in tiel record*, and appeal to the RECORD for my vindication. It will be seen that it is said I charged Senator QUAY with being a thief. Mr. Speaker, I deny the allegation and I denounce the allegator. [Laughter.]

I do not know who the correspondent of that paper is, but I will say for him that this dispatch evidences in a high degree that this correspondent possesses the first qualification of a correspondent for a second-class Republican newspaper, that of misrepresentation. He states that I called Senator QUAY a thief and that Mr. CANNON, of Illinois, retorted by referring to the defaulting Democratic treasurers.

Now, what are the facts? The only reference, as will be seen by the RECORD, made by me to Senator QUAY before Mr. CANNON read his list of defaulting Democratic treasurers, was a statement that it had been currently reported before the Presidential election that the present Postmaster-General had collected and subscribed a large amount of money as a corruption fund, to be used by Mr. QUAY in the campaign, for which it was understood he was to be rewarded with a Cabinet place, in the event the Republicans succeeded. That this public scandal, though denied by some innocent Republicans at first, had been apparently verified after the election.

Mr. ATKINSON, of Pennsylvania. Mr. Speaker, I rise to a question of order.

Mr. ALLEN, of Mississippi. I am just stating what remarks I made.

Mr. ATKINSON, of Pennsylvania. I wish to renew my point of order that this is not a privileged question. Rule IX, in which privileged questions are defined, reads as follows:

Questions of privilege shall be first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of members individually in their representative capacity only, and shall have precedence of all other questions except motions to adjourn.

Now, the gentleman from Mississippi has not made out any such case as comes within this rule. There has been no allegation there affecting his rights or his reputation or his conduct that I can see, and there is no excuse for him repeating a speech that he has made and which is now, I presume, published in the RECORD.

Mr. ALLEN, of Mississippi. Mr. Speaker, I do hope the gentleman will not judge us all by himself. It may not affect him for a man to call him a liar and to misrepresent him; but with me it is different. I am a sensitive man. [Laughter.]

Mr. ATKINSON, of Pennsylvania. The gentleman has not made out that any man has called him a liar, as I understand it.

Mr. ALLEN, of Mississippi. I have shown, Mr. Speaker, that I was charged—and that thing has gone to the country—that I was charged with calling Senator QUAY a thief.

Mr. ATKINSON, of Pennsylvania. That is very different. The fact that he was guilty of misconduct and that he made a slander against any person does not give him the privilege of this floor, and gives him no right to do a similar thing under the guise of speaking to a question of privilege.

Mr. ALLEN, of Mississippi. Now the gentleman is about to charge me with slander.

The SPEAKER *pro tempore*. The gentleman from Mississippi will proceed in order.

Mr. ALLEN, of Mississippi. Now, Mr. Speaker, I do assert in all frankness I was in no conspiracy to attack Senator QUAY and I did not mean to attack him. I do not know him, but those who do, say he has some good traits. [Laughter.] It is true I had seen these charges accusing him of having used and lost about \$260,000 of the State's money while he was secretary of state and a Mr. Noyes was treasurer,



and that the wealthy men, mainly Senator CAMERON, had come to the rescue and saved a scandal; and that while he [Mr. QUAY] was State treasurer he had used \$400,000 of the State's money in private speculation, and had been successful in that venture and paid the money back.

The charges had been set out with great definiteness and published for some time, with no denial from any one, so far as I knew. They were in papers of wide circulation and of pecuniary responsibility; but, sir, I would not have referred to them, but when my friend, Mr. CANNON, began reading the list of Democratic State treasurers who were defaulters, one from my State, then in the sudden heat of debate, without premeditation and without malice, I casually suggested that it was true we had had some such defalcations, but that we had never made any of these men who had appropriated public funds to private uses chairmen of our national committees or elected them to the United States Senate. Well, for some reason, everybody seemed to jump at the idea that I was referring to the present chairman of the Republican committee, though I had not said so.

The truth is, Mr. CANNON was sitting so fair I could not help but hit him [laughter], but I explained that I did not know anything about the truth of these charges except what I had seen in the papers, and suggested that as these newspaper statements seemed to be as good proof as Republicans wanted to attack our people with, I thought it no harm to refer to them. Now, Mr. Chairman, this Philadelphia Inquirer says Mr. DARLINGTON jumped up and gave the lie to my charge. This is a mistake. Mr. DARLINGTON did not and would not give the lie to anything said by me. [Laughter.] Mr. DARLINGTON knows I would not lie. [Laughter.] Mr. DARLINGTON did get up in reply to General SPINOLA and made, if you remember, a very guarded statement, one that seemed to have in it some studied evasion of the charges against Senator QUAY, to the effect that he was on Senator QUAY's bond as treasurer, and that he was not called on to pay anything, and that there was no defalcation by him as treasurer, and that he never heard of the story before; but this did not meet the charges.

Now, Mr. Chairman, just a few words in reference to these resolutions of the Republican executive committee. I must have an opportunity to reply to them, for my burdens are becoming greater than I can bear. I find I have incurred the adverse criticism of the distinguished citizen of Massachusetts [Mr. CANDLER], although I sit up of nights trying to work out how I can obtain his approval [laughter], but to have, on top of that, the displeasure of the Republican executive committee of Pennsylvania [laughter] and be denounced as a Mississippi fire-eater, all in one week, is more than I can bear. [Laughter.] Sir, I am a man of sorrow and acquainted with grief. As a child I had all the contagious diseases known among children, including whooping cough, measles, mumps, etc. I survived all these and grew to this robust manhood. [Laughter.]

Sir, I have stood the fatigue of the march, the shock of battle, the struggles of the political campaign, and hardships and deprivations of Congressional life, and had many other troubles and disappointments. I have stood up to all this manfully; but, sir, if I am to bear what I have on me now and go through life without being vindicated from the charge of being a "fire-eater," I will be a crushed man. [Laughter.] Sir, I deny the charge. I never was a "fire-eater;" I never loved fire. [Laughter.] Now, sir, I see by the resolutions I read you that Senator QUAY has been nobly vindicated by his executive committee. I ask you to read those resolutions carefully beside some I have here, just received by telegram from the mayor and councilmen of the town of Tupelo, the place that has the honor to be my home. [Laughter.]

#### PRIVATE ALLEN VINDICATED.

Resolved by the mayor and councilmen of the town of Tupelo, That they recognize, in the outrageous conduct of the Republican State committee of Pennsylvania in spreading on their minutes the charge that Private ALLEN, once an honored member of this body, is "a Mississippi fire-eater," a plot on the part of leading Republicans of that State to assail the public reputation of distinguished Democratic leaders—

[Laughter]—

and that the selection of Private ALLEN as the most prominent object in this conspiracy and the assaults upon him by a second-class Republican newspaper of Philadelphia call for the unqualified condemnation of all men who have any regard for reputation and character.

[Laughter.]

The people of Tupelo have twice passed upon the charge that Mr. ALLEN was a fire-eater, by electing him as a member of this board by the maximum Democratic majority—

[Laughter]—

it having been conclusively established that the charge was a Radical Republican campaign lie. The extent of Mr. ALLEN's offending is that he is now engaged in showing up the false pretenses and hypocritical professions of the Republican party, and this charge that he is a Mississippi fire-eater is brought forward at this time to break the force of his terrible arraignment of the present Administration and to check the fast-growing popularity of this distinguished leader.

[Great laughter.]

Resolved, That this board convey its thanks to the newspapers of the country, which have, with a few unworthy exceptions, wholly discountenanced the publication of these resolutions about Mr. ALLEN, thereby showing the contempt which all feel for those who are chronic revelers in political and private scandals, and for the methods of this conspiracy.

[Laughter.]

Mr. O'DONNELL. Is that message marked "collect?"

Mr. ALLEN, of Mississippi. No, sir; it came paid. [Laughter.]

Mr. BAKER. I would like to ask whether the gentleman has anything from Oklahoma upon the subject of his being a "fire-water" man? [Laughter.]

Mr. ALLEN, of Mississippi. No, sir; nothing from Oklahoma upon that subject. I confess the company I was in while in Oklahoma might have caused me to be suspected with something of that kind; but it would only be on account of having been in bad company. [Laughter.]

Mr. Speaker, I do not want to detain the House longer. I only wanted the privilege of showing what I did say about this matter. I wish to add one further remark about Senator QUAY.

I do think the damaging charges against a man in his high station, the head of his party and the trusted adviser of the President, should be investigated and his innocence established in some better way than by a resolution of his party executive committee. These papers that are circulating these charges should be sued for defamation of character; and to show, Mr. Speaker, how utterly devoid of malice I was in this matter and how far I am from conspiring to injure him, to show my good faith in all this matter I offer my service to him as an attorney to conduct the prosecution. I will do it free, and if he will not accept that I will serve him on a contingent fee. The thing certainly ought to be cleared up. I do not want the charge of conspiracy resting against me. [Laughter.]

#### ORDER OF BUSINESS.

Mr. BUTTERWORTH. I now renew my motion that the House resolve itself into Committee of the Whole for the consideration of the legislative appropriation bill.

#### CHANGE OF REFERENCE.

On motion of Mr. HENDERSON, of Iowa, the Committee on Commerce was discharged from the further consideration of the bill (H. R. 9682) for the protection of property, trainmen, and other railroad employees in handling locomotive engines, freight-trains, and freight-cars engaged in interstate commerce, and the same was referred to the Committee on Railways and Canals.

#### PENSIONS.

Mr. WILLIAMS, of Ohio. I ask unanimous consent to present and have printed in the RECORD, without the names, the petition of 2,519 ex-Union soldiers of the Third district of Ohio, asking the passage of a service-pension law.

The SPEAKER *pro tempore*. Is there objection? The Chair hears none.

The petition, the body of which is as follows, was referred to the Committee on Invalid Pensions:

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

The undersigned, surviving soldiers of the Union Army, respectfully petition your honorable bodies to pass a law giving to each honorably discharged soldier and sailor of that Army a service pension as an honorable recognition of his patriotism, courage, and devotion in defense of the life of the nation. We recognize a wide difference of opinion as to what that pension should be, but we believe it should be a pension based wholly upon service, the details of which law it is the duty of Congress to determine.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed bills and a joint resolution of the following titles; in which the concurrence of the House was requested:

A bill (S. 559) to provide for the erection of a public building at the city of Fayetteville, N. C.;

A bill (S. 3599) to provide an American register for the steamer Sacrobosco; and

Joint resolution (S. R. 76) to authorize Lieut. Henry R. Lemly, United States Army, to accept a position under the Government of the Republic of Colombia.

#### PUBLIC BUILDING AT LA FAYETTE, IND.

The SPEAKER *pro tempore* announced the appointment of Mr. MILLIKEN, Mr. POST, and Mr. BANKHEAD as the committee of conference on the part of the House upon the bill (S. 606) to provide for the purchase of a site and the erection of a public building thereon at La Fayette, in the State of Indiana.

#### ORDER OF BUSINESS.

The SPEAKER *pro tempore* proceeded to put the question on the motion of Mr. BUTTERWORTH that the House resolve itself into Committee of the Whole on the state of the Union, to resume the consideration of the legislative appropriation bill.

Mr. BAKER (while the question was being put). I ask that the Speaker present to the House a message from the Senate relative to a bill which is now lying on the Speaker's table.

The question having been taken on the motion of Mr. BUTTERWORTH, the Speaker *pro tempore* stated that the motion was agreed to.

Mr. BAKER. I understood that the gentleman from Ohio [Mr. BUTTERWORTH] yielded to me.

The SPEAKER *pro tempore*. The Chair did not so understand.

## LEGISLATIVE APPROPRIATION BILL.

The House resolved itself into Committee of the Whole on the state of the Union (Mr. PAYSON in the chair), and resumed the consideration of the bill (H. R. 9066) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1891, and for other purposes.

The CHAIRMAN. The question pending when the committee rose was upon the point of order made by the gentleman from Texas [Mr. SAYERS]. The gentleman from Ohio [Mr. GROSVENOR] is recognized.

Mr. GROSVENOR. Mr. Chairman, pending the consideration of this question of order in relation to the appropriation for the board of pension appeals in the Pension Office, the gentleman from Tennessee [Mr. ENLOE] saw fit to make an attack upon an official of the Pension Bureau, General Bussey, who has occupied the position of Assistant Secretary of the Interior. What particular or especial personal considerations may have entered into that discussion I know not, nor do I know that any do. I rise now simply to place on record a refutation of the assault made upon General Bussey for having made certain rulings in regard to the claims of pensioners which had been carried to him on appeal under the law. The principal part of my argument will consist in the publication of the decisions themselves and the reviews of those decisions and the questions arising by former Secretaries of the Interior and by the Supreme Court of the United States.

There were two branches to the assault made by the gentleman, independent of the fact that General Bussey had at some time been an employé of the Government at \$60 a month. So far as that question is concerned I know nothing about it. I understood that language to apply to General Bussey; that he had at one time been an employé of the Government at \$60 a month. The language, it is true, is somewhat obscure, and, if the gentleman says he meant somebody else, of course that is all right; but, if he had reference to General Bussey, it is a high compliment, I think, to pay him—

Mr. ENLOE. Will the gentleman permit me—

Mr. GROSVENOR. Who, as I will try to show, has so honorably and faithfully discharged the duties of his position.

Mr. ENLOE. I will state to the gentleman from Ohio who it is that is currently credited with writing these remarkable opinions. The name of that individual is Baber, a member of the board of pension appeals, a Democrat under the last Administration, put into the Department at the rate of \$60 per month, a man who denounced Harrison before the election and praised Cleveland, and denounced Cleveland after the election and praised Harrison.

Mr. GROSVENOR. Adopting, I suppose, a sort of general Democratic line of conduct.

Mr. CANNON. Mr. Chairman, I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. CANNON. Neither General Bussey nor Mr. Baber I apprehend needs any vindication from attack on this purely business bill. I would be glad if gentlemen could settle these matters at some other time and let us get on with this bill. It seems to me that attack or vindication of men who do not need it is not in order on a bill of this character.

The CHAIRMAN. The Chair will state that in the discussion of the question of order on yesterday the remarks of the gentleman from Tennessee (Mr. ENLOE) took somewhat of a wide range, and the gentleman from Ohio suggested to the Chair that he desired to make a brief reply.

Mr. GROSVENOR. I think, Mr. Chairman, that I have an understanding with the committee, and I shall occupy but a very few moments longer.

The CHAIRMAN. The gentleman from Ohio will proceed by consent briefly.

Mr. GROSVENOR. There are two questions involved, Mr. Chairman, in the first ruling of the Pension Department, as to the question of what is the proper construction of the words "in the line of duty." I shall submit in this connection a decision which vindicates the opinion and judgment of General Bussey.

In addition I want to say that from the time these questions began to be raised in the pension legislation of the country I have always taken the ground, and believe that I have been right and that it is a tenable position, that the soldier was in the line of duty so long as he was subject to the orders of the Government and was not doing anything in violation of the orders of the Government; that he was just as much in the line of duty on furlough, or on his return to his regiment, and during the hours of relaxation from duty, and under all the circumstances of his life in the Army, so long as he was complying with the rules and regulations of the service, as if in line of battle. If he was not violating the orders and rules of the service he is in the "line of duty."

The second position is an assault on the decision of General Bussey that the fact that a soldier did not have an honorable discharge from the service was no bar to his recovery of a pension, under certain circumstances appertaining to each case.

Now, I confess that the language of the gentleman from Tennessee struck a chord that challenges a sort of response in the heart of every old soldier; and when the question was raised at the National Encampment of the Grand Army of the Republic at Milwaukee, almost a storm

of opposition to that position came from the delegates there. But when the statement was made by a distinguished representative of the Grand Army, and past commander-in-chief, General Burdette, and a citation of certain authorities which I have here was presented, the whole matter passed away. And if the gentleman from Tennessee and other gentlemen will take the trouble to study the documents which I will, with unanimous consent, publish in connection with my speech, he will discover that all the Secretaries of the Interior, so far as I have been able to discover, have held all that General Bussey has held, and that the decision of General Bussey in the Kaufman case, which has been criticised so severely, has been upheld, sustained, and approved by Judge Holt, a great lawyer and distinguished ex-Judge-Advocate-General of the United States Army, and also that in point of fact the Supreme Court of the United States, upon a question of the same general character, has held that the right of a soldier to pension is a matter of legislation, and that, where there is a provision that a soldier who has served so and so upon certain conditions may have a pension, it is no bar to such claim that there is a charge of desertion standing against him in the War Department if he served out his time and was discharged.

Mr. SPRINGER. Will the gentleman supply the citation to which he refers from that case?

Mr. GROSVENOR. I will with much pleasure. I will publish it with my remarks.

Mr. SPRINGER. I would be glad if the gentleman would state it now, as I want to look it up.

Mr. GROSVENOR. I will take pleasure in doing so. I did not wish to weary the committee here by reading these papers, but as the gentleman calls for it—

Mr. BUTTERWORTH. I hope that my colleague from Ohio will consent to pursue this exercise a little further on after we have gotten through with this bill.

Mr. GROSVENOR. If the gentleman from Illinois will waive his demand I will print this paper and furnish the gentleman with a copy of it.

Mr. SPRINGER. Very well. I would like to have the exact decision to which the gentleman refers.

Mr. GROSVENOR. So it appears by these citations from the Supreme Court decision that the decision of General Bussey is a correct decision under the law.

Now, General Bussey is an executive officer. He does not create statutory enactments, but he decides what the law is; and the result of his decision is that where the law grants a pension without limitation the soldier was entitled to the pension without regard to the question of desertion upon the rolls; and so the legislation we formulate to-day by the House contains the provision, as it ought to have been in all pension legislation and I admit that it ought to be now, that these benefits shall go only to honorably discharged soldiers.

Of course, under that sort of law there might be a case where the individual would be subject to injury. But I maintain that General Bussey has simply decided what the law is, and in doing so he ought not to be criticised because the law is defective.

I desire to publish in this connection a letter from General Bussey, received this morning, pointing out where the decisions are and how he has reached the conclusions to which I have referred. I simply desire, Mr. Chairman, to reserve the right in formulating my revised speech to put these documents into it in their regular order.

The following is the letter of General Bussey, which I received to-day:

DEPARTMENT OF THE INTERIOR,  
Washington, April 26, 1890.

MY DEAR SIR: In reply to your inquiry as to the origin, character, and service of the board of pension appeals, Department of the Interior, I have the honor to say that it is founded upon that clause of section 441, Revised Statutes, which confers upon the Secretary of the Department supervisory control over pensions and bounty lands. Claims for pension are filed with the Commissioner of Pensions, who adjudicates each claim either favorably or adversely to the claimant. In cases adversely decided by the Commissioner, the soldier has the right of appeal to the Secretary, who reviews the grounds on which the Commissioner's decision was based and either affirms or overrules the same.

It is readily perceived that the Secretary could not give personal attention to the investigation of the appeals that are made to him, and therefore, following the practice that prevails in each Department, he must refer the appeals to subordinates who are chosen for the work. Prior to the vast accumulation of appeals in pension claims, it was customary for the Secretary to refer the appeals to persons connected with the clerical force of the Pension Office, who were detailed from that office for the purpose. This course, however, was not deemed wholly desirable, inasmuch as it was believed that the persons who might represent the Secretary in considering pension appeals should be independent of the Pension Office. In pursuance of this idea, the Select Committee on Pensions, Bounty, and Back Pay, Forty-sixth Congress, special session, in its report, made through Mr. Coffroth, of Pennsylvania, submitted the following recommendation, namely:

"Your committee are of the opinion that a court of pensions, or a board of appeals and review, in no way under the control of or subject to the direction of the Commissioner [of Pensions] should be established to review the decisions of the Commissioner of Pensions in cases where claims have been rejected. Such a tribunal would, without doubt, be of great benefit, not only to the Government, but to the many unsuccessful applicants who are now practically without remedy."

You see from the foregoing the foundation principle upon which rests the existing board of pension appeals. The recommendation of the Coffroth committee was not immediately acted upon by the Congress then in session, but in the session of 1883-'84, Secretary Teller, impressed with the necessity for the body the creation of which had been so earnestly suggested, presented the matter again in his annual report; and thereupon the board was created in pursuance of the legislative appropriation bill, which went into effect July 1, 1884.



The board as originally constituted was composed, as now, of three members, who, as stated by me in my annual report to the Secretary, October 2, 1889, "were charged with the preparation of decisions which, with the approval of the Secretary, became the current rulings of the Department upon questions of law and of fact in appeal cases, and also the precedents by which the merits of similar claims should be ascertained." Since the organization of the board the membership has embraced six, nine, and twelve persons, whose services were rendered necessary from year to year to meet the requirements of the work intrusted to the body. The increase now asked for by the Secretary is made necessary by the large accumulation of appeal cases and by the demands of justice to claimants. The enemies of the pension system and of pensions to the soldiers of the Union have been, as now, opposed to the provision thus made by law for the benefit of the disabled veterans and of their widows and minors; but they have sought in vain to destroy the provision itself.

With reference to the rulings made by the Department upon appeals involving the claims for invalid pension, filed by soldiers who had been "dishonorably discharged" from the service, I have simply to say that said rulings are entirely consistent with the established precedents of the Department in construing the law applicable to such cases. It is true that, in utter disregard of the precedents and of the law, an attempt was made by the Commissioner of Pensions, under the preceding Administration, to overrule the immemorial practice of the Department with reference to the relation of a "dishonorable discharge" to a claim for pension based upon a disability incurred in the line of duty; but when there came before the Department, August 17, 1889, an appeal involving the soundness of the Commissioner's adverse ruling, that ruling was set aside and the long-established decisions of the Department on the subject were reinstated.

The ruling thus made in the case of Daniel B. Kaufman was most carefully considered in the light of law and of the best precedents, and is believed to be absolutely correct. It has been assailed with abuse by those who have not read it and by those who did not comprehend the pension system. It has been denounced also by demagogues who aim, by a perversion of its meaning, to give it an offensive interpretation. But it is sustained and approved by all who have given to the subject an honest investigation and who appreciate the provision which the pension system affords for all soldiers who have incurred disease, injuries, or other pensionable disabilities in the line of military duty. With reference to the decision in the Kaufman case, I am at liberty to call your attention to the following letter addressed to me by Hon. Joseph Holt, ex-Judge Advocate-General, whose name and fame as a lawyer and patriot are familiar to you:

"WASHINGTON, September 30, 1889.

"DEAR SIR: The pamphlet which you were so good as to place in my hands has been carefully read, and I thank you for the pleasure its perusal has afforded me. It is hardly necessary to say that I concur fully in your views, as I appreciate the clear and impressive terms in which they have been presented. Fortified, as you are, by the authority and precedents cited, I can not doubt that your position will hereafter be accepted as an impregnable one. Of course it is very gratifying to observe that an opinion which it became my duty to deliver years ago still abides the test of scrutiny and of time.

"Very sincerely, yours,

"J. HOLT.

"Hon. CYRUS BUSSEY,  
Assistant Secretary of the Interior."

In addition to this emphatic letter from Judge Holt, I respectfully direct your attention to the accompanying copy of the decision in the Kaufman case, to which it refers, and also to the full text of the opinion rendered by Secretary Delano, June 9, 1875, in the case of Jane Conroy, which is in full harmony with the later opinion rendered by me and which is in keeping with the highest authorities on the subject, from the establishment of the pension system itself. You see, therefore, that the ruling made by the Department August 17, 1889, was far from being a new or novel expression of opinion. It was nothing more than an overruling of an instance of "departmental legislation" by a Commissioner of Pensions and the reassertion of one of the most carefully established precedents in the history of claims for invalid pension. I respectfully request that you will submit to the House the full text of the ruling in the Kaufman case (marked A) and likewise the antecedent decision in a similar case (marked B) rendered by Secretary Delano June 9, 1875.

The statement which has been made on the floor of the House that the Department has decided that a "deserter" is pensionable is not only incorrect, but absurd in itself. No such decision has been rendered by this nor by any administration of the Department. The Department holds now, as always heretofore, that a "deserter" can not be pensioned, inasmuch as a "deserter" has never been discharged and is, constructively, in the service. The rulings made by the present administration on this subject have their precedents in the action of the immediately preceding administration, and I take the liberty of inclosing two rulings (cases of John Van Fossen and Elizabeth A. Gannon, marked C and D) on the subject which explicitly state the law and the practice appertaining to such cases. A perusal of these rulings will promptly and effectually disclose the error of those who, for partisan purposes, have aimed to misrepresent the attitude of the Department.

Trusting that I have now made a sufficient answer to your inquiries, I have the honor to be, your obedient servant,

CYRUS BUSSEY,  
Assistant Secretary.

Hon. CHARLES H. GROSVENOR,  
House of Representatives.

The following cases show the state of the law:

**DISHONORABLE DISCHARGE NO BAR TO PENSION,**

DANIEL B. KAUFMAN.

(Departmental decision [vol. I, P. D., p. 383] overruled.)

1. Invalid pensions are granted for causes of disability due exclusively to line of duty in the service.
2. A discharge from the service is a prerequisite to pension, but the nature or the character of the discharge itself does not impair, nor otherwise affect, the claim for pension on account of disabilities due to the service.
3. A "dishonorable discharge" is a penalty imposed by competent authority for an offense against the regulations of the service, but has no relation to the claim or title to pension for alleged disabilities; and, when said penalty is inflicted, the power of the Government to punish for the alleged offense is exhausted in the instance named.
4. A "dishonorable discharge" does not involve the forfeiture of a soldier's pensionable rights, there being no law whereby such forfeiture can be enforced; and the Department possesses no power to inflict such a penalty outside the express terms of the statute.
5. Rule 135 rescinded, the adverse decision of the case overruled, and the former practice of the Department revived and applied.

Assistant Secretary Bussey to the Commissioner of Pensions, August 17, 1889.

In pursuance of the motion filed by Mr. Charles E. Fairman, as attorney, April 3, 1889, setting forth grounds for the reconsideration of the adverse departmental decision rendered October 23, 1887, in the pension claim (No. 374664) of Daniel B. Kaufman, late captain Company A, Forty-eighth Regiment Pennsylvania

Volunteers, I have examined the evidence in the accompanying papers and the law applicable thereto. As a result of this examination, I have determined to sustain the motion for reconsideration, overrule the said adverse departmental decision, and allow the claim for pension, for the reasons that hereafter appear.

**STATEMENT OF CASE.**

The records of the War Department show that claimant was mustered into the service as captain September 17, 1861, and dismissed the service by sentence of general court-martial, promulgated in general court-martial Orders No. 28, Headquarters Army of the Potomac, August 1, 1864.

Claimant's declaration was filed June 7, 1880, alleging that he incurred hernia and piles in the service and in line of duty. The legal reviewer who examined the case in the Bureau of Pensions states, under date of May 7, 1887, namely: "Aside from questions of dishonorable discharge, claim is admissible. Soundness and origin proved." The claim was rejected on the ground that the claimant was "dishonorably discharged from the service." The case came before the Department upon appeal from this adverse action.

**THE QUESTION.**

The only question to be determined in the reconsideration of this case is whether or not a "dishonorable discharge" from the service works a forfeiture of title or of claim to pension for disabilities alleged to have been incurred in the line of duty. This is purely a question of law, and the law alone must be consulted in the adjudication of it.

The claimant assumes that his right to pension does not arise from either the nature or the extent of the service which he rendered, nor from any particular duty which he performed. On the contrary, he holds that in an original invalid-pension claim like his the right to pension, no less than the pension itself, is conferred by law, not as a reward for service, nor as a recognition of the merits of any special act, but as a gratuitous aid bestowed by the Government because of just two facts, established by conclusive evidence, namely: First, that the soldier was in the service and line of duty and, second, that whilst therein and by reason of the service he incurred pensionable disabilities, due either to injury or to disease. The fact is that in creating what is called the pension system the Government never intended to require any particular degree or character of service as a prerequisite to an invalid pension.

The first statute of which we have notice in the history of this system confers pension exclusively "by reason of any wound, or injury, or disease contracted while in the service of the United States and in the line of duty." This was the basis of the system, indicating its whole significance and scope as applicable to those who served in the war for American Independence. I find that the original statute made no reference to nor provision for the militia of the States; but the phraseology of the law, as contained in section 1639, Revised Statutes, was so modified as to include the militia when in actual service, the entire language of the section being as follows, namely:

"If any person, whether officer or soldier, belonging to the militia of any State and called out into the service of the United States, be wounded, or disabled, while in actual service, he shall be taken care of and provided for at the public expense."

It thus appears that in the beginning the right to pension was dependent upon only one condition, namely, the incurrence of the pensionable disability in the service and line of duty. Upon proof of that condition the claimant was to be "taken care of and provided for at the public expense."

**HONORABLE DISCHARGE.**

There was a verbal modification in the statutes relating to pensions for the war of 1812 and for the war with Mexico, in which the expression "honorable discharge" from the service appeared for the first time; and there is an important reason for and meaning in that modification. The war of the Revolution, like the late war for the Union, was a struggle between "life and death," as it were; and the pension laws enacted with reference to both wars are very broad, extraordinarily liberal in their provisions. They differed from the statutes relating to the war of 1812 and the war with Mexico, inasmuch as they contain neither a prefix nor a suffix to the word "discharge." But in the statutes relating to the war of 1812 and the war with Mexico the expression "honorable" appears as a prefix to the word "discharge." Section 4730, Revised Statutes, for instance, having relation to the war with Mexico, is as follows:

"Any officer, non-commissioned officer, musician, or private, whether of the Regular Army or volunteer, disabled by reason of injury received or disease contracted while in the line of duty in actual service in the war with Mexico, or in going to or returning from the same, who received an honorable discharge, shall be entitled to a pension proportionate to his disability, etc."

It is observed that the expression "honorable discharge" in the foregoing section is not coupled with a negative, nor with any term of inhibition applicable to a claimant for pension who may not have received an "honorable discharge." The expression is not used as an essential prerequisite to pension; nor does the section mean that a soldier who has not obtained or received an "honorable discharge" shall not be pensioned. On the contrary, properly construed, it simply says and means that a man who has an "honorable discharge" shall, by virtue of that fact alone, be regarded as having been properly "discharged" from the service and as occupying therefore a status which, *prima facie*, enables him to claim a pension, in accordance with law, for a wound, or for a disease, or for an injury alleged to have been incurred in the service and line of duty. The language of the statute simply imposes on the soldier who may not have an "honorable discharge" the duty and necessity of proving, not only that he was in the service, but that he has been actually separated from it—honorable, perhaps, but even dishonorably, if need be.

It may be further stated that the expression "honorable discharge" was put in the statute partly for the purpose of simplifying and facilitating the adjudication of pension claims by the Commissioner of Pensions or by the Secretary of the Interior, the statute virtually saying to a claimant: "If you can bring forward a paper, properly authenticated, showing that you were 'honorable discharged,' that paper shall be accepted as in itself proof of the fact alleged, without further evidence, without further investigation, without further inquiry—proof, in fact, that you were not only in the service, but that you are now separated from it and occupy the legal status of a claimant for pension." And what I have thus said in reference to the meaning of section 4730 of the Revised Statutes is equally applicable to sections 4732, 4736, 4740, 4756, and 4757, which are the only sections in these statutes, so far as I have been able to ascertain, that contain the expression "honorable discharge," or its equivalent—not as a primary requirement, nor as a necessary condition precedent to pension, but only as evidence or proof of a fact, namely, discharge or separation from the service, which is essential, as I shall undertake to show, and which is the only essential fact precedent to the right to apply for pension.

The truth is that a great many soldiers of the wars of 1812 and 1846, after leaving the service, had no papers in their possession going to prove that they had been either "honorable," or otherwise, discharged. Such men were therefore required to prove that they had been discharged from the service, and that their contract with the Government was ended, because a soldier can not be pensioned while in the service. These statutes, therefore, simply impose upon such claimants the duty of establishing their discharge, whereas those who held an "honorable discharge" had no such proof to make, they having already a *prima facie* title to the status of claimants. But the lack of an honorable discharge could not, nor was it intended to, work a forfeiture of the right to claim pension under the law.



## A PRIMA FACIE CLAIM.

I have shown that the law which created the pension system did not originally require even a formal or authenticated discharge from the military service as a precedent to pension. Subsequently, in the development of our military organization, a formal discharge was made necessary, the rule being thereby established that proof must be made of both actual and constructive separation from the service, inasmuch as the Government could not consistently pension soldiers who at the same time remained in the service and received pay for services rendered. Having made the proof of discharge an essential factor in a pension claim, Congress, when enacting sections 4730, 4732, 4736, 4740, Revised Statutes, having reference to pensions for the war of 1812, the Indian wars, and the war with Mexico, used the words "honorable discharge" in conjunction with the claimant, to the effect that he who was "disabled by reason of injury received or disease contracted while in the line of duty in actual service," and "who received an honorable discharge, shall be entitled to pension in proportion to disability," etc.

It is very clear, as I have already insisted, that these words were put into those sections for the purpose only of describing a *prima facie* claim or title to pension, and not, as was lately urged by an ex-Commissioner of Pensions, to create an inhibition or "bar" to pension, to be enforced against all who might not be in possession of an authenticated "honorable discharge." An "honorable discharge" being recognized as in itself conclusive evidence of the claimant's legal status, the lack of such a "discharge" necessarily put upon the claimant the burden of proof as to the date of his enlistment in, and also as to his separation from, the service in which his disabilities were incurred. The indisputable fact that numerous soldiers of the war of 1812, of the Indian wars, and of the war with Mexico have been pensioned, although they did not receive an "honorable discharge" at the expiration of their service, demonstrates the accuracy of this construction of the law. It shows, furthermore, that a soldier's claim to pension is not affected by either the nature or the extent of his services, but only by the nature and the extent of his disabilities.

## DISCHARGES AND PENSIONS.

The word "discharge" wherever it occurs in the law has but one meaning, so far as the right to pension is concerned. Whether prefixed by the word "honorable" or the word "dishonorable," it has no significance or bearing on the actual claim for pension, except to draw the line of demarcation from which a claim for pension may be considered by the Commissioner of Pensions or by the Secretary of the Interior, not upon the ground of service, but upon the basis exclusively of disability incurred in the line of duty. But it may be said, "If you pension a man who has been 'dishonorably discharged,' you ignore or obliterate those high moral distinctions which should control the Department in determining the merits of a claim to pension." To this I answer that a claim to an original invalid pension can not be considered from a moral point of view, nor as an index to either a soldier's character or the nature of his service.

If, therefore, there be a penalty inflicted on a soldier by a court-martial on account of an offense he may have committed, it must be a penalty imposed for an act done in violation of the service alone. Therefore, a court-martial, which has jurisdiction of military offenses only, has no jurisdiction of matters relating to pensions. In other words, a court-martial can not adjudicate a man's right to pension, inasmuch as it can not inflict a penalty appertaining to pension claims. Such a claim, by its very nature, is not within the jurisdiction of a court-martial. The only penalties which may be thus inflicted by a court-martial are distinctly enumerated in section 896, Article LXIII, Articles of War, to wit:

"Sec. 896, Art. LXIII. The legal punishment for soldiers by sentence of court-martial, according to the offense and the jurisdiction of the court, under the law, are death, confinement on bread and water diet, solitary confinement, hard labor, ball and chain, forfeiture of pay and allowances, discharges from service, and reprimands, and, for non-commissioned officers, reduction to the ranks." (Register, 1863, page 895; General Orders 25, 1878.)

## SENTENCE OF COURT-MARTIAL.

A court-martial is, therefore, incompetent to include in its judgment and to inflict on a soldier the penalty of forfeiture of pension for an offense committed in the service. The sentence of a court-martial, resulting from the trial of a soldier, may be a "dishonorable discharge," but it can not work a forfeiture of pension, inasmuch as the claim to pension, being based upon an alleged disability caused by the service, is not within the jurisdiction of a court-martial, which tries offenses only, and not claims for pension. It appears that the pay due a soldier may be stopped by a court-martial; he may be cashiered and deprived of all the rights, privileges, honors, and emoluments appertaining to his rank in the service; but the sentence of the court can not touch pensionable rights. I maintain, therefore, that a "dishonorable discharge" from the service, resulting from a court-martial and inflicted as a penalty, as it necessarily must be, on account of some offense against the service, can not affect a claim for invalid pension, and, hence, can not involve a forfeiture of right to pension.

## EFFECTS OF A "DISHONORABLE" DISCHARGE.

In reference to the legal effect of a "dishonorable" discharge, permit me to call your attention to a decision rendered in 1868, by Hon. Joseph Holt, the Judge-Advocate-General of the United States. On page 373 of the Digest of Opinions of the Judge-Advocate-General I find the following:

"In the absence of any statutory provision on the subject, it is held not to be essential to entitle a person to a military pension that he should have received an honorable discharge as a soldier. The pension is granted on account of disability incurred by the party in the line of duty, while in the military service, wholly irrespective of the circumstances, whether honorable or dishonorable, under which he may subsequently have become separated from the Army." (XLIII, 346.)

The foregoing ruling emphasizes the argument which I here present. I believe it is an accurate interpretation of the law, an interpretation that was steadfastly adhered to by this Department in the adjudication of pension claims until about four years ago. The ruling of Judge Holt involves the principle that inasmuch as a "dishonorable discharge" from the service is a "punishment" inflicted by the verdict of a court-martial for an offense named in the verdict, the soldier who is thus punished can not be again subjected to a penalty for the same offense; and it follows that to deny said soldier's title to pension for disabilities incurred in the line of duty would be equivalent to punishing him twice for the same offense, an act obnoxious to the essential doctrines of law and of justice alike. This principle as defined by Judge Holt was affirmed in the decision rendered by the Supreme Court of the United States in the case of United States vs. Kelley (15 Wallace's Report, page 34), it being specifically named in the language of that tribunal; and from it I draw these conclusions, namely:

1. A "dishonorable discharge" is a penalty which can be inflicted by only a court-martial for an offense against the regulations of the military service.
2. A court-martial has no jurisdiction over any question involving either a claim or a right to pension; and, therefore,
3. The sentence of a court-martial, inflicting the penalty of "dishonorable discharge," can not affect either a soldier's claim or right to pension, for, when said penalty is executed, all the punishment which the Government may inflict is thereby exhausted upon the soldier for the offense which he may have committed.

If, therefore, a "dishonorable discharge" from the service be a penalty which can be imposed by a court-martial only and if a court-martial have no jurisdiction over either a claim or a right to pension for alleged disabilities, then how

can the penalty of "dishonorable discharge" work the forfeiture of a right or of a claim to pension which can not be even considered, much less decided, by such a tribunal? The question is one of law, the mere statement of which suggests the inevitable answer.

## FORMER DEPARTMENTAL RULINGS.

The legal relation of a "dishonorable discharge" to a soldier's right to pension was considered with evident care by the Secretary of the Interior in the claim (No. 200696) of Mrs. Mary Jane Conroy, as dependent mother of James B. Conroy, late a sergeant in Company H, One hundred and eighty-third Pennsylvania Volunteers, the claim having been rejected by the Commissioner upon the ground that the deceased soldier (Conroy) had been cashiered, or "dishonorably discharged" from the service, by sentence of a court-martial. In the course of the opinion, rendered June 9, 1875, by the Secretary, Hon. Columbus Delano, reversing the ruling of the Commissioner of Pensions, occurs the following exhaustive presentation of the subject:

"While it is true that cashiering involves a dishonorable discharge from the service, there is no statute which, in terms, imposes upon a dishonorably discharged soldier of the late rebellion a disability to receive a pension, provided he be disabled by disease contracted, or wounds received, while in the line of duty as a soldier. The act of July 14, 1862, grants a pension to any officer and in the line of duty. Neither that act nor any subsequent act of Congress amendatory thereof, or supplementary thereto, contains any provision whatever by which a pension is denied to a disabled soldier of the war of 1861 because he was dishonorably discharged. The allowance and payment of pension to such a soldier is conditioned alone upon proof of disability incurred in the service and line of duty.

"In view of the absence in said statutes of any prohibition of the nature referred to, it is fair to infer that no discrimination was contemplated in their enactment against an otherwise deserving applicant for pension by reason of his dishonorable discharge. Such an inference is supported by the fact that in several statutes passed before and since the late rebellion special exemptions are made in regard to pensions and bounties. For example, the act of March 23, 1872, restricts the allowance of bounty to "those" who "did not desert the said service," and the same restriction, in the same words, is contained in the act of April 10, 1866. The act of March 3, 1855, granting bounty land, provides that "the person so having been in service shall not receive said land warrant if it shall appear by the muster-rolls of his regiment or corps that he deserted or was dishonorably discharged from service;" and the joint resolution of March 3, 1871, directs the withholding of certain moneys from deserters. It has been decided, however, by the First Comptroller of the Treasury that this last restriction does not apply to pensions.

"The statutes conferring and regulating pensions passed since March 4, 1861, are absolutely silent in regard to the class of persons under consideration. Desertion forfeits the right to bounty, and properly so, even if the law were silent, because bounty is a reward promised by the Government for certain service under an implied contract, which required of the soldier a continuous service until the expiration of the term of enlistment, and desertion is a violation of such contract by the soldier, which justifies the Government in withholding the stipulated consideration. A pension, however, is no part of the contract for service. It is a payment for loss of physical ability to earn a livelihood, determined solely by the degree of disability, and not, in any sense, a reward for good conduct. The character of the discharge, whether honorable or dishonorable, indicating good or bad character, can have no bearing whatever on the nature and extent of the disability, which alone decides the right to pension. This is clear from the language of the act of July 14, 1862, as follows: "Any officer," etc., "who has been disabled by reason of any wound received or disease contracted while in the service of the United States, \* \* \* shall \* \* \* be placed upon the list of invalid pensioners," etc. No reference to his character as a soldier or to the terms of his discharge is made, but it is the disability alone which entitles him to a pension."

The foregoing ruling of the Secretary of the Interior was the first full and definite statement of the law relating to the "honorable" and "dishonorable" discharges ever made by the Interior Department. It has never been controverted by any satisfactory process of reasoning, nor by any citation of law applicable to the subject. It is in harmony with the ruling of the Judge-Advocate-General, the affirmation of that ruling by the Supreme Court of the United States, and in harmony also with the practice of the Bureau of Pensions from the organization thereof to September 4, 1885, when the late Commissioner Black issued ruling No. 135, which was thereafter approved by the Secretary of the Interior, Lamar, thereby changing the immemorial practice of the Department.

## SECTIONS 4692 AND 4693.

Attention is again called to the fact that Congress, having unlimited power over pensions, failed, either purposely or negatively, to incorporate in sections 4692 and 4693, R. S., any requirement of discharge from the service, whether "honorable" or "dishonorable," as a condition requisite to pension for disabilities or for death incurred in the line of duty. These sections define four distinct classes of pensioners on account of the recent war for the Union, and they embrace the whole law now applicable to the pensionable soldiers of that war. In these sections the incurrence of wounds, or of injuries, or of other disability for procuring subsistence by manual labor is the only necessary condition named as the basis of pension; and neither the Commissioner of Pensions nor the Secretary of the Interior has authority to inject into said sections either a word or words that might lead to a different construction.

In accordance with the terms of those sections the claim of Daniel B. Kaufman must be adjudicated. The fact that, subsequent to the incurrence of his alleged disabilities, he was tried by a court-martial, sentenced to imprisonment, and dishonorably discharged from the service does not and can not prejudice nor otherwise affect his claim before the Department, inasmuch as the Department can take no cognizance of the fact itself in adjudicating said claim. The sentence of the court-martial inflicted upon Kaufman a specific penalty for a particular offense, and the execution of that sentence exhausted all the punishment which the Government could impose upon him. Adopting the language so aptly employed by the late Commissioner of Pensions in defining the principle governing the case of Francis Kiernan (No. 312354), I now say:

"The decision of the court-martial is conclusive. The court, having full jurisdiction, inflicted all the punishment, applied all the penalty permitted by law, and exhausted the resources of governmental punishment for the offense. It is contrary to the manifest principles of justice to twice punish for the same offense."

The "dishonorable discharge" of Kaufman was a penalty that, in addition to imprisonment, could deprive him of nothing more than "pay due" and of what ever other emoluments might be officially connected with his rank in the service, involving therewith painful mortification and wounded honor; and now to put upon him, by a ruling of this Department, the additional penalty of forfeiture of right to pension for disabilities previously incurred in the line of duty would be to enlarge the sentence of the court, and without even another trial to punish the claimant twice for the same offense. Such a proceeding would be adverse to every principle of law that is recognized in the jurisprudence of civilized communities.

## A "DISHONORABLE DISCHARGE."

As heretofore stated, the question growing out of this claim is, does a "dishonorable discharge" inflicted by a court-martial involve, necessarily, a for-



feiture of right to pension? The question is not whether the effect of a "dishonorable discharge" may be cured by some act of official clemency. It is not whether a soldier, having been "dishonorably" discharged from the service, may be recalled and, by reason of certain considerations, given an "honorable" discharge. But the question is, does a "dishonorable discharge" forfeit the claimant's right to pension? The law says, substantially, that the sentence of a court-martial can embrace those penalties only that are distinctly described or defined by the sentence itself; but the penalty of forfeiture of right to pension is neither described nor indicated in the sentence that was announced against Daniel B. Kaufman. If this be true, upon what ground or by what rational process can the Department decide that, by virtue of the "dishonorable" discharge, claimant forfeited his right to pension?

Can either the Commissioner of Pensions or the Secretary of the Interior create penalties that are not defined by the statutes which they are sworn to execute? Can either or both combined affix new penalties to alleged offenses? Can either or both inflict a penalty unknown to the law, by a judicial construction of the statute, by the interpolation of phraseology upon the statute, or by an implication of law? With all possible emphasis, I answer, no! Penal statutes must be strictly construed. They can not be extended by implication. The law does not allow of constructive offenses nor of arbitrary punishments, and therefore it is a fundamental doctrine of criminal jurisprudence that, where an offender is protected by the letter of a penal statute, he can not be deprived of its benefits on the ground that his case is not within its spirit. Things which do not come within the words of a court-martial's sentence can not be justly brought within by construction. "If," as was said by Chief-Justice Best, of England, when discussing this same principle, "these rules are violated, the fate of accused persons is decided by the arbitrary discretion of judges, and not by the express authority of the law."

#### PENALTIES BY "CONSTRUCTION."

Not only is it manifestly wrong to create penalties by a supposed equitable construction of the statutes, but it is a fundamental rule—long recognized in adjudications by this Department—that the legislative intent is to be ascertained from the statute itself, unless the language be so ambiguous as to render such construction unreasonable or impracticable. An eminent jurist has wisely said from the bench:

"Every day I see the necessity of not importing into statutes words which are not found there. Such a mode of interpretation only gives occasion to endless difficulties." (Per Patterson, J., in *King vs. Burrell*, 12 A. E. 468.)

And, referring to Decisions Relating to Land and Land Claims (volume 1, page 286), Interior Department, I find a noteworthy ruling in regard to the importation of words into a statute appertaining to land grants, a ruling that applies, in principle, to the point I am striving to enforce. The Department held as follows:

"In the case of *Newhall vs. Sanger* (92 U. S., 761), it was strenuously urged by the learned counsel that the word 'lawfully' should be imported into section 6 of the act of March 3, 1853 (10 Stat., 246), by which lands claimed under Mexican or Spanish grants were reserved from pre-emption and sale until final decree upon title; but the court, in passing upon this question, said: 'It is said that this means lawfully claimed; but there is no authority to import a word into a statute in order to change its meaning.' This rule of construction is elementary, and indorsed by all text writers." (See *Potter's Dwarrris*, 199 *et seq.*)

These principles, being fundamental, are susceptible of universal application. The law under which we are now acting, and which is fully embraced in sections 4692 and 4693, R. S., having reference to soldiers of the war for the Union, 1861-'65, has nothing to say about "discharge," much less either an "honorable" or a "dishonorable" discharge, as a precedent to pension; but, if the word "discharge" alone were used you could not, for the purposes of interpretation, interpolate or import into those sections, by way of prefix or affix, the qualifying word, either "honorable" or "dishonorable." That would be to change the statute's meaning and intent, and no accepted rule of construction will permit it. A "dishonorable discharge," as I have shown, is a penalty which a court-martial may inflict upon a soldier for some offense committed against the regulations of the service or in violation of the Articles of War; and not only the offense, but the punishment, its nature and extent, must be particularly described in the sentence of the court.

You never heard nor read of an instance wherein the sentence of a court-martial related to a right or a claim to pension, nor of an instance wherein the sentence of a court-martial ever referred, directly or indirectly, to the forfeiture of a right to pension as a part or as a consequence of such penalty. Punishments for crime must be clearly defined, and the terms in which they are expressed must be strictly enforced. It is admissible for a competent tribunal, exercising the spirit of mercy, to mitigate or lessen a penalty; but no recognized rule of construction will allow the enlargement of a penalty by any kind of implication. And now, in view of the question involved in the claim of Daniel B. Kaufman, has either the Commissioner of Pensions or the Secretary of the Interior authority, by an alleged equitable construction of the statute, to subject the claimant to a penalty not named in the law, nor in the sentence of the court-martial by which he was tried, and that, too, in the presence of the fact that the sentence of the court has been already executed and all the resources of governmental punishment have been exhausted in the case? Can either the Commissioner of Pensions or the Secretary of the Interior, by implication of law or by judicial construction, affix to the sentence of the court-martial an additional penalty and thereby punish Daniel B. Kaufman twice for the same offense? Certainly not!

#### THE MORAL ASPECT OF PENSIONS—RULE 135.

An endeavor has been made to give a moral and social aspect to the effect that a "dishonorable" discharge by sentence of court-martial may or should have upon a soldier's right to pension for disabilities incurred in the line of duty; and accordingly high distinctions, predicated upon character and inspired by a theory of morals, have been raised between the honorably discharged and the dishonorably discharged soldiers, past and present. In pursuance of this sort of reasoning, the late Commissioner of Pensions, in ruling 135, having declared that "Congress did not intend to pension a deserter" and that it "has expressly recognized that a deserter's pension is forfeited by the act of desertion," goes on to say:

"No ordinary man can believe, without convincing proof thereof, that it has been designed to exact of the soldiers of the regular Army, and of that great class of volunteers of other and honorable wars, the condition of an honorable discharge or release from service and at the same time allow that the company of their equally honorable brethren of the war of 1861 should be degraded and lowered in the universal estimation of mankind by admitting to the high privileges of the pension-roll those not honorably discharged or released from the service. Or, in other words, the Commissioner can not believe that the Government intends that the deserter of the war of 1861 should be placed upon a par with the faithful soldiers of that great war and all the wars that preceded it. It will not be presumed as a matter of law that the Government of the United States intends to and does bestow equal honors upon two absolutely distinct classes of claimants, and that it will allow the rewards of honorable service and honorable discharge to those who have disgraced the service and abandoned their comrades in the hour of peril. The power of Congress in the premises is equal, whether the granting of a pension be regarded as the performance of a contract or the bestowal of a gratuity; for, if the first, it is forfeited by the act of desertion; and, if the second, the granting power has the right, and has ex-

ercised it, to attach a clause of defeasance to the grant, which became operative on the act of desertion."

The foregoing quotation from ex-Commissioner Black's ruling (No. 135), September 4, 1885, presents, in addition to its mixture of terms and its misguided interpretation or statement of the law, a question which is irrelevant to the pension system, foreign to the purposes of that system, and which, if answered in the manner desired by the Commissioner himself, would require a revolution of the system and a remodeling of much of existing pension legislation. It is an attempt to bring claims for pension into the domain of moral and social problems, and to grant pensions to claimants upon the basis, not of physical disabilities incurred in the service and line of duty, but of either moral or social considerations, affecting personal character and growing out of alleged criminal offenses against the regulations of the service or the Articles of War. Let us for a moment endeavor to analyze the ex-Commissioner's statement or argument:

1. While it is true that "Congress did not intend to pension a deserter" and that no deserter can ever be lawfully pensioned, yet, it is not true now, nor was it ever true, that a "deserter's pension" is "forfeited by the act of desertion." In fact, no deserter was ever pensioned, nor can he be, inasmuch as a deserter remains, constructively, in the service. He has no discharge, and therefore has not been "released from the service." No man, whatever may be his pensionable disabilities, can be granted an invalid pension so long as he continues, either actively or constructively, in the military service. Hence, a soldier who has, for whatever reason, deserted the service, must procure from the Secretary of War the removal of the charge of "desertion" that may stand against him on the records of the War Department, and thereupon obtain an authenticated discharge from the service, before he can occupy the status of even a claimant to pension.

When, however, the charge of desertion is removed from the records of the War Department and he is given a formal discharge, the deserter ceases to be a "deserter" and occupies, consequently, the ground of perfect legal equality with all other applicants for pension, the only remaining fact necessary to establish his claim upon the Government being proof of the incurrance of a pensionable disability in line of duty. Hence, the ex-Commissioner is guilty of misnomer when referring to a "deserter's pension." There is not, there never was, nor can there be such a thing in law as a "deserter's pension," and therefore the ex-Commissioner is in error when saying that "Congress has expressly recognized that a deserter's pension is forfeited by the act of desertion." Neither a deserter nor any one else could forfeit that which he never had and to which he can not assert a title.

The ex-Commissioner may have intended to say that Congress did not mean to pension a soldier "against whom the charge of desertion remains," and that it has expressly recognized that a soldier's right or claim to pension, having been suspended (not forfeited) by "the act of desertion," can not be legally considered by the Department, unless the charge of desertion be removed and the soldier given a formal discharge from the service. I may here add that a pension once granted can be forfeited only upon proof that it was fraudulently obtained, or erroneously issued, or that the disability for which it was granted has ceased to exist in a pensionable degree. I admit that Congress had the right and the power to attach "a clause of defeasance" to the grant of a pension, but neither the right nor the power was ever exercised beyond the extent and the way which I have already indicated. In the absence of a statutory clause of defeasance, neither the Commissioner of Pensions nor the Secretary of the Interior has authority to create a "defeasance" by either implication or construction. Neither of them can go outside the express terms of the law.

2. The ex-Commissioner, still following a line of reasoning from a false premise, says, in ruling 135, that—

"No ordinary man can believe, without convincing proof thereof, that it has been designed to exact of the soldiers of the regular Army, and of that great class of volunteers of other and honorable wars, the condition of an honorable discharge or release from service and at the same time allow that the company of their equally honorable brethren of the war of 1861 should be degraded and lowered in the universal estimation of mankind by admitting to the high privilege of the pension-roll those not honorably discharged or released from service. Or, in other words, the Commissioner can not believe that the Government intends that the deserter of the war of 1861 should be placed upon a par with the faithful soldiers of that great war and all the wars that preceded it."

The false premise in the foregoing quotation consists in the declaration that an "honorable discharge" or the "condition of an honorable discharge" is exacted of "the soldiers of the regular Army and of that great class of volunteers of other and honorable wars." There is not, nor has there ever been, in any Congressional enactment, nor in any article of war, such an exacton as the ex-Commissioner indicates; and, in the statute regulating pensions for the war of 1861, there is no exacton appertaining to any sort of discharge. There is no distinction apparent in the statute between "honorably" and "dishonorably" discharged soldiers of that war, but pensions are provided upon the exclusive ground of disabilities incurred in the service.

Adhering to an imaginary "exacton" which, he assumes, is made of "the soldiers of the regular Army, and of that great class of volunteers of other and honorable wars," the late Commissioner protests against the idea that the "honorable brethren of the war of 1861 should be degraded and lowered in the universal estimation of mankind, by admitting to the high privileges of the pension-roll those not honorably discharged or released from service." This ostensible protest is based upon two fundamental errors which, I venture to say, must be discarded in order that the meaning of the pension system may appear in its true light. There is no question as to either degrading or lowering anybody "in the universal estimation of mankind" involved in the matter.

3. The pension system is not one of "privileges," nor of rewards, nor of honors, nor of morals. It is purely and exclusively a system of Governmental gratuity, of aid, of care for the physically disabled whose wounds or injuries or diseases have been incurred in and by reason of the service. The law nowhere recognizes the degree or the character of service as a prerequisite to invalid pension, and, therefore, the honors of the service, the privileges of rank, and the rewards of gallantry in the field bear no relation to invalid pension. The honors, the privileges, and the rewards of the service are conferred by neither the Commissioner of Pensions nor the Secretary of the Interior. Invalid pensions are not only badges of honor, but marks of disease or of other physical disability, and the recipients of them are not classified by the law with reference to their personal character, whether high or low, nor with reference to the nature of service rendered, whether much or little and whether brilliant or commonplace.

When men were enlisted in the war of 1861, they were accepted without regard to their moral, social, or religious character and without respect to either their race or their nationality. The high and the lowly, the rich and the poor went to the service "on a par," upon terms of perfect equality before the law, the only "exacton" being a proper physical condition for the line of duty; and the Government proclaimed to all alike that, in the event they incurred disease, or wounds, or other injuries in the line of duty, they should be helped or pensioned in proportion to their disabilities, as the same might be ascertained by an authenticated medical examination. Surely a medical examination was never made for the purpose of determining a man's social, moral, or legal status. The fact that a soldier is granted a pension does not elevate him morally or socially; and, on the other hand, the fact that a soldier was never granted and can not secure a pension does not, and should not, either degrade or lower him in "the universal estimation of mankind."



The soldier who may be devoid of moral character and who served only a day may incur in the line of duty a disability that shall entitle him to the highest pensionable rating, while the soldier whose personal character may be of the noblest moral type, who faithfully served four years in succession and won increasing honors, may never be pensioned, or he may incur in the line of duty, at the very close of his service, a disability that shall entitle him to only the lowest pensionable rating. This fact clearly illustrates the absolute divorce of pension for disabilities from the rewards and honors of the service, and thereby explodes the aforesaid ethical or moral theory of the pension system.

## CONCLUSION.

Governed by the foregoing considerations, I have reached the following conclusions, namely:

1. Invalid pensions are granted for causes of disability due exclusively to line of duty in the service.

2. A discharge from the service is a prerequisite to pension, but the nature or the character of the discharge itself does not impair, nor otherwise affect, the claim for pension on account of disabilities due to the service.

3. A "dishonorable discharge" is a penalty imposed by competent authority for an offense against the regulations of the service, but has no relation to the claim or title to pension for alleged disabilities; and, when said penalty is inflicted, the power of the Government to punish for the alleged offense is exhausted in the instance named.

4. A "dishonorable discharge" does not involve the forfeiture of a soldier's pensionable rights, there being no law whereby such forfeiture can be enforced; and the Department possesses no power to inflict such a penalty outside the express terms of the statute.

As a consequence of the above-stated propositions, I reconsider and overrule the adverse departmental decision (P. D., volume 1, page 383) rendered in this case October 22, 1887. I also overrule so much of Rule 135, dated September 4, 1885, as relates to "dishonorable discharge," and reaffirm the original and long-existing policy of the Department, as accurately defined by the ruling of the Secretary of the Interior in the claim (No. 200696) of Mrs. Jane Conroy, as dependent mother of James B. Conroy, late sergeant in Company H, Eighty-third Pennsylvania Volunteers, said ruling being dated June 9, 1875; and the views herein expressed are to govern the action of the Department in adjudicating all similar claims. You will therefore admit claimant to the pension-roll in accordance with the rules and regulations of your bureau.

Hon. Columbus Delano, while Secretary of the Interior, made the following decision:

## DISHONORABLE DISCHARGE AND PENSION.

Following is the full text of the ruling made by Secretary Delano, June 9, 1875, in the case of Jane Conroy, as dependent mother of James B. Conroy, having reference to the relation of a dishonorable discharge to a claim for invalid pension. This ruling is quoted as an authority in the ruling of Assistant Secretary Bussey in the case of Daniel B. Kaufman, page 137, volume 1, Pension Decisions:

*Secretary Delano to the Commissioner of Pensions, June 9, 1875.*

SIR: I have received and considered a report from your office dated the 17th of April last, resubmitting the papers in the rejected claim for pension (No. 200696, Clf. No. 171088) of Mrs. Jane Conroy, as dependent mother of James B. Conroy, late a sergeant in Company H, One hundred and eighty-third Pennsylvania Volunteers.

The case was before the Department on appeal in December last, and on the 2d of that month I affirmed the rejection of the claim upon the ground that a record of desertion or dishonorable discharge against a claimant for pension must be corrected before the claim should be allowed.

Acting upon incorrect information furnished at the time by your office, I arrived at the erroneous conclusion that the uniform practice of the Department had been for many years to regard such a record as a bar to pension. I find, however, upon carefully examining the several decisions made in such cases by the Department, that the practice of your office during the past eight years has been to reject a claim for pension if it appeared that the soldier had deserted or had been dishonorably discharged from the term of service during which the disability was incurred, or where the soldier had deserted and it did not appear that he ever returned to duty, or was regularly discharged from the service. This practice has been sanctioned by my two immediate predecessors (Cox, J. D., and Browning, O. H.), and meets with my approval; but, after a full consideration of all the statutes bearing upon the question, I am of the opinion that a broader view thereof should be taken, and that the character of the soldier's service should have no bearing whatever upon his right to pension.

It appears from the papers in the Conroy case that the claim was rejected by your office because the deceased soldier, while holding the rank of first lieutenant, was cashiered pursuant to the sentence of a general court-martial. The disability imposed by such sentence was, however, subsequently removed so far as to allow him to re-enter the service; and the papers show that he re-enlisted in a subordinate rank, served creditably, and was honorably discharged from the latter service. During his first term of service (from which he was dishonorably discharged) he contracted the disability which, it is alleged, resulted in his death.

While it is true that cashiering involves a dishonorable discharge from the service, there is no statute which, in terms, imposes upon a dishonorably discharged soldier of the late rebellion a disability to receive a pension, provided he be disabled by disease contracted or wounds received while in the line of duty as a soldier. The act of July 14, 1862, grants a pension to any officer of the Army who since March 4, 1861, has been disabled while in the service and in the line of duty. Neither that act nor any subsequent act of Congress amendatory thereof or supplementary thereto contains any provision whatever by which a pension is denied to a disabled soldier of the war of 1861 because he was dishonorably discharged. The allowance and payment of pension to such a soldier is conditioned alone upon proof of disability incurred in the service and line of duty.

In view of the absence in said statutes of any prohibition of the nature referred to, it is fair to infer that no discrimination was contemplated in their enactment against an otherwise deserving applicant for pension by reason of his dishonorable discharge. Such an inference is supported by the fact that in several statutes, passed before and since the late rebellion, special exemptions are made in regard to pensions and bounties. For example, the act of March 23, 1872, restricts the allowance of pension to "those" who "did not desert the said service," and the same restriction, in the same words, is contained in the act of April 10, 1866. The act of March 3, 1855, granting bounty land, provides that "the person so having been in service shall not receive said land warrant if it shall appear by the muster-rolls of his regiment or corps that he deserted or was dishonorably discharged from service;" and the joint resolution of March 3, 1871, directs the withholding of certain moneys from deserters. It has been decided, however, by the First Comptroller of the Treasury that this last restriction does not apply to pensions.

The statutes conferring and regulating pensions, passed since March 4, 1861, are absolutely silent in regard to the class of persons under consideration. Desertion forfeits the right to bounty, and properly so, even if the law were silent, because bounty is a reward promised by the Government for certain service under an implied contract, which required of the soldier a continuous service until the expiration of the term of enlistment, and desertion is a violation

of such contract by the soldier, which justifies the Government in withholding the stipulated consideration. A pension, however, is no part of the contract for service. It is a payment for loss of physical ability to earn a livelihood, determined solely by the degree of disability, and not in any sense a reward for good conduct.

The character of the discharge, whether honorable or dishonorable, indicating good or bad character, can have no bearing on the nature and extent of the disability, which alone decides the right to pension. This is clear from the language of the act of July 14, 1862, as follows: "Any officer," etc., "who has been disabled by reason of any wound received or disease contracted while in the service of the United States \* \* \* shall \* \* \* be placed upon the list of invalid pensioners," etc. No reference to his character as a soldier nor to the terms of his discharge is made, but it is the disability alone which entitles him to pension. It is apparent from the foregoing that the right of Conroy to a pension was not forfeited by his dishonorable discharge, and that, if the claim be otherwise established, his mother is entitled to pension on account of his death. The future practice of your office will conform to the foregoing views.

C. DELANO, Secretary.

The following shows that the decisions of General Bussey have been consistent:

DEPARTMENT OF THE INTERIOR,  
Washington, D. C., June 19, 1880.

## DESERTER—NON-PENSIONABLE.

ELIZABETH A. GANNON (MOTHER).

(On motion for reconsideration.)

The pension system requires a discharge from the service as a prerequisite to pension. A deserter is, constructively, in the service so long as the charge of desertion lingers against him. Said charge must be removed by operation of law or by a special act of the War Department, in order that the soldier may become a lawful claimant for pension; nor can a mother be pensioned on account of a son who died while a deserter.

*Assistant Secretary Bussey to the Commissioner of Pensions, June 19, 1880.*

The motion filed May 10, 1880, by E. H. Gelston & Co., attorneys, of this city, for the reconsideration of the departmental decision rendered October 27, 1887, adverse to the claim of Elizabeth A. as dependent mother of Jonathan Gannon, late private, Company B, Sixty-sixth Regiment Illinois Volunteers, is denied.

The records of the War Department show that the "soldier enlisted October 11, 1861, for three years; deserted December 9, 1863; arrested by Major Lusk, of the Tenth Missouri Cavalry, on or about January 15, 1864, and confined at Vicksburg, Miss.; confined March 1, 1864, at Fort Pickering Hospital, Tennessee, and released March 11, 1864; entered small-pox hospital, Memphis, Tenn., March 12, 1864, with confirmed [confluent?] small-pox, and died of said disease March 18 or 20, 1864."

Under date of August 23, 1887, the Adjutant-General, United States Army, reports that "the application for the removal of the charge of desertion has been denied," and, therefore, the charge yet remains on the records against the deceased soldier's name.

The claim of the mother for pension, having been filed originally July 15, 1881, alleging partial dependence on the deceased soldier, was rejected September 14, 1887, upon the ground that "a charge of desertion stands against the soldier which the Adjutant-General of the Army refuses to remove," and upon the further ground that "the cause of soldier's death originated while he was held under arrest for desertion."

In ruling upon the pending motion, I am governed, apart from all other considerations, by the recorded fact that at the date of the late soldier's death the charge of desertion was in existence against him, and that said charge, having never been removed by any action of a court-martial or by other authority having competent jurisdiction, still lingers against the soldier, and by the fact, also, that the Adjutant-General of the Army has denied an application for the removal of it. This fact, if the soldier were living, would exclude him from the status of a lawful claimant for pension, and operates consequently to exclude his mother from consideration as a claimant for pension on account of his death.

This ruling is based upon an essential principle in our system of pensions. The system requires that a discharge from the service shall be shown as a prerequisite to pension; but a deserter is, constructively, in the service so long as the charge of desertion lingers against him; and it is necessary that, by operation of law or by a special act of the War Department, said charge shall be removed in order that such soldier may acquire before the Department the status of a lawful claimant for pension. The soldier who remains a deserter is never discharged under the regulations of the service. The late soldier was a deserter; he was under arrest for desertion at the time he contracted the disease which caused his death; and he died while still holding toward the service the relation of a deserter. The War Department having refused to expunge this charge from the records, the Secretary of the Interior can take no jurisdiction of the pending motion, and, therefore, dismisses it.

DEPARTMENT OF THE INTERIOR,  
Washington, D. C., February 24, 1890.

## DESERTION RECORD—RETURN—PENSION.

JOHN VAN FOSSEN.

1. Where the soldier returns from an apparent desertion, is readmitted to the service, and thence formally discharged at the expiration of his enlistment or for other lawful cause, he can not be held as, in fact, a deserter in the sense that would render him ineligible to pension for disabilities incurred in the line of duty. The desertion that bars from pension is the desertion from which there is no return to the service.

2. Rewards are given for service; punishments are inflicted for offenses; but pensions are conferred by the general law for disabilities alone, contracted in the line of duty, nor can a pension be granted until after the soldier is discharged.

3. Inasmuch as a soldier so long as he remains a deserter is not discharged, but, constructively, in the service, he can not occupy a pensionable status; but a formal discharge terminates the status of desertion and places the soldier, regardless of the record, in the attitude of an eligible claimant for invalid pension.

*Assistant Secretary Bussey to the Commissioner of Pensions, February 24, 1890.*

Herewith are returned the papers which accompanied your report of August 26, 1889, in the case of John Van Fossen, of Company B, Second Missouri State Militia Cavalry, and of Company M, Ninth Iowa Cavalry, on appeal from the action of your bureau rejecting the original claim for invalid pension.

Claimant, in his original declaration for pension, filed August 29, 1882, alleges that while at Alexandria, Mo., during the winter of 1862 he contracted measles which resulted in disease of lungs and general debility.

The records of the War Department show that claimant, under name of John Van Fossen, was enrolled January 21, 1862 (period of enlistment not stated), "war in Missouri."



Master-rolls for March and April, 1862, not on file; May and June, 1862, absent with leave; rolls for July and August, 1862, not on file; September and October, 1862, and subsequent rolls to date of company's muster-out, March 10, 1865, name not borne. "This man while a deserter from this organization (Company B, Second Missouri State Militia Cavalry) enlisted under the name of John Van Fossen in Company M, Ninth Iowa Cavalry, in violation of the twenty-second (now fiftieth) article of war."

The Adjutant-General's report again shows:

"John Van Fossen, private, Company M, Ninth Iowa Cavalry, was enrolled July 23, 1863, at Ottumwa, Iowa, for three years, and is reported on rolls to December 31, 1863, present. February 29, 1864, sick in quarters. Present on subsequent rolls to December 31, 1865. Mustered out with company February 3, 1866, at Little Rock, Ark. 'This man, under the name of John Van Fossen, deserted from Company B, Second Missouri Cavalry, and enlisted in this organization in violation of the twenty-second (now fiftieth) article of war.' This office can not recognize the legality of this enlistment, nor any claim for services rendered thereunder. The law views him as in a continuous state of desertion during the whole period of this enlistment. Regimental hospital register and prescription book are not on file. Other records on file do not show nature of sickness February 29, 1864.

"The case is not covered by the act of May 17, 1866, as the man was absent in desertion more than three months."

"The claim was rejected September 22, 1885, on the ground that 'claimant deserted from the organization in which alleged disease was contracted. The Adjutant-General declines to give him an honorable discharge, for the reason that he 're-enlisted in another company while a deserter, in violation of the twenty-second (now fiftieth) article of war.'

From the foregoing action claimant now appeals, contending as follows:

"I first enlisted in the Second Missouri Cavalry, Company B, on the 21st of January, 1862, for three years or during the war. In February or March the same year I took the measles, and being exposed, doing the duties of a soldier, and being on scouts and getting wet, I took cold and the measles settled in my lungs, causing lung disease and general disability for which I claim pension. Some time in October and November (?) not being able to do duty of any kind I went home, not thinking of deserting in the least and not knowing that I was doing wrong, as I was young, being about eighteen years old. I did not know the rules and regulations of the Army then, but I learned them afterwards. I went home and staid there and doctored with our family doctor until I got better; then I wanted to get back to my regiment which was in South Missouri, and I lived in the northeast corner (Clark County, Missouri). They were recruiting in my county for the Ninth Iowa Cavalry, and they told me that if I would enlist in the Ninth Iowa Cavalry it would be all right. So I thought if it was all right I would enlist, as there was a good many of my neighbors enlisted in the company from my neighborhood. I enlisted in the Ninth Iowa Cavalry, Company M, on the 25th of July, 1863, and was discharged on the 3d day of February, 1866. \* \* \* I never received any bounty for my first service, and only \$100 when I was discharged from the last service, and \$100 more some time after discharge. I never was under arrest, and never in the guard-house in either service, nor ever punished in any way, except by sickness. I have furnished all the evidence that has been required of me.

"JOHN VAN FOSSEN."

#### BRIEF OF EVIDENCE.

Claimant, in an affidavit, filed December 11, 1882, gives a history of the origin, continuance, and medical treatment of his disabilities, corroborative of his original declaration.

In another affidavit, filed March 31, 1885, claimant states that he has furnished all the medical evidence he can find concerning his disabilities. Claimant's discharge certificate from the Ninth Iowa Cavalry, filed with the papers in the case, shows that he was only about nineteen years of age when he was enrolled.

William Buskirk (second lieutenant Company B, Second Missouri Cavalry), in an affidavit filed February 10, 1885, swears that "claimant contracted measles in January or February, 1862, at Alexandria, Mo., and took cold which settled on his lungs, and when the Second and Eleventh Regiments were consolidated the surgeon gave claimant a certificate, and affiant can not say what his condition was after that." (Reputation good.) This affiant, in a letter filed March 6, 1885, says claimant was discharged on account of disability in summer of 1862.

William Anderson, comrade (Company D, Second Missouri Cavalry), in an affidavit filed February 10, 1885, swears that "claimant contracted measles in March, 1862, which settled in lungs and resulted in disease and general debility, caused by exposure while in line of duty; that he has known claimant ever since his discharge, and he has been about one-half disabled." (Reputation fair.)

James R. Richey, comrade (Company C, Second Missouri Cavalry), in affidavit filed February 10, 1885, swears that "claimant was attacked with measles about March, 1862, at Alexandria, Mo., which settled on his lungs and caused general debility. Affiant knows the above facts, having seen claimant in hospital at Alexandria, Mo., while sick, and nursed him part of the time." (Reputation good.)

Dr. Noah Lyon, surgeon (Second Missouri Cavalry), in affidavit filed February 10, 1885, swears that, "as near as he can remember, claimant was absent on sick furlough when affiant joined the regiment; it was reported that he had taken measles; claimant reported to the command and passed examination at Canton, Mo., in May. Some time after, from rough exposure while out scouting, he came into camp at Palmyra, Mo., with pneumonia and fever, and affiant treated him in hospital for eight or ten days, when he returned to duty, but did not recover sound health and was several times in hospital during August and September, 1862; and at the close of the campaign in October, 1862, he became constitutionally unfit for a soldier and was discharged from the service." (Reputation good.)

Dr. M. P. Archer, in affidavit filed February 10, 1885, swears that he has known and treated claimant for the past six years for lung trouble. Affiant is not satisfied as to the cause. Claimant spits blood and complains of his left lung. Affiant does not think his treatment has done claimant much good, and considers him about one-half disabled. (Reputation good.)

Dr. Arthur P. Buckner, in affidavit filed February 10, 1885, swears that he "has been claimant's family physician since 1870 up to three years ago. He was suffering with incipient phthisis from affiant's first treatment and gradually grew worse, emaciating and showing the characteristic physical signs. He was enfeebled and debilitated so that he could not perform more than one-half manual labor. Affiant heard that claimant had measles while in the Army." (Reputation good.)

Dr. B. F. Roberts, in affidavit filed February 10, 1885, swears: "First knew claimant in 1882, since which time has given him medical treatment. On examination found him badly affected with lung disease. Affiant's diagnosis was tuberculous deposit of both lungs. Judges from present condition that disease is of long standing and has not yielded to treatment. Disabled at least one-half." (Reputation bad.)

By Dr. William L. Taylor, United States examining surgeon at Greencastle, Mo., January 17, 1883, whose medical certificate states as follows:

"I find dullness on percussion over the lower lobe of left lung; respiration is very slow and labored; hacking cough; frequent hemorrhages; anemic. Grade one-half of total. Disability permanent in my opinion."

#### OPINION.

The main question that arises upon the papers in this case relates to the effect produced upon a claimant's application for invalid pension by a mere charge of temporary desertion yet remaining on the records of the War Department, notwithstanding the fact that claimant returned from the alleged desertion to the line of duty and, after faithful service, was formally discharged. In this instance, the claimant, being a member of Company B, Second Missouri State Cavalry, and likewise enlisted at the time in the service of the United States, was taken sick with measles, and becoming thereby unfit for military duty was allowed to go home on sick furlough in November, 1862. Being unable to return to his place in said Company B, Second Missouri State Cavalry, until he sufficiently recovered to resume military duty, he re-enlisted July 28, 1863, in Company M, Ninth Iowa Cavalry, and therein served throughout the term of his enlistment, being discharged with his company February 3, 1866. Claimant's absence from Company B, Second Missouri State Cavalry, is the basis of the charge of desertion which remains on the records of the War Department, notwithstanding claimant's voluntary return to the service and faithful performance of duty to the date of his formal discharge.

The circumstances of claimant's absence from his original command (the Missouri State Cavalry) and of his re-enlistment, February 3, 1863, in the Ninth Iowa Cavalry, are clearly set forth in claimant's own statement, heretofore fully quoted. From this statement the following facts are drawn:

1. Claimant's absence from his original command (Company B, Missouri State Cavalry) originated in a sick furlough and not a desertion. Being a comparatively ignorant man, unacquainted with the technical regulations of the military service, he evidently did not suppose that the prolongation of his absence from his command beyond the limits of his furlough, on account of sickness, involved any criminal offense on his part, nor was any offense intended.

2. Claimant's return to the service, February 3, 1863, by enlisting in the Ninth Iowa Cavalry, was voluntary and in good faith, there having been on his part no intention to abandon the service in the spirit of desertion from the line of duty, and the return is to be construed as a verification of this fact; nor did claimant know that the line of duty would be violated by enlisting in the Ninth Iowa Cavalry, instead of resuming, if possible or practicable, his former place as a member of Company B, Second Missouri State Cavalry. The fact that claimant was not only allowed, without objection, to serve out the term of his original enlistment in the Iowa regiment, but was discharged therefrom with his company, and that he was never arrested or otherwise punished for the alleged desertion, demonstrates, as far as the papers show, that the alleged desertion was deemed only technical and not criminal in its character within the purview and intent of the Articles of War appertaining to the subject. The failure to punish shows lack of guilt.

The Department fully recognizes the absolute control which is conferred by law upon the Secretary of War over the records of his office and fully concedes that it is optional with the head of that Department as to whether, for reasons that may be presented, he will expunge a charge of desertion from said records; but it remains with this Department to determine whether or not the charge of desertion be such as the law declares shall debar a claimant from pensionable status. The refusal to expunge fixes the permanency of the record, but not necessarily the final status of the soldier in relation to the charge of desertion.

1. It is obvious from the essential principles of the pension system that a soldier, so long as he shall remain a deserter, is not eligible to pension. This is true because of the fact that a soldier who remains a deserter is, constructively, in the service and therefore not discharged, and a formal discharge is a primary requisite to pension. It is not, however, the record of the act, but the continuance of the desertion itself, and the consequent lack of a discharge, that creates the legal barrier between the said record and a claim for invalid pension; but where the soldier returns from an apparent desertion, is readmitted to the service, and thence formally discharged at the expiration of his enlistment or for other lawful cause, he can not be held as in fact a deserter in the sense that would render him ineligible to pension for disabilities incurred in the line of duty. The desertion that bars from pension is the desertion from which there is no return, and which, therefore, is not followed by a discharge from the service. But a return from even an actual desertion and a readmission to the line of duty, without objection by competent authority, is equivalent in law and in morals alike to a trial for the offense and a verdict of acquittal; and much more may it be said that where, as in this case, a soldier is given a sick furlough from his original command, connected with the organization of a State military force, and is prevented by ill-health from promptly returning to his company, but subsequently returns to the service, although re-enlisting in a different command—it being a part of the Army of the United States—and serving to date of discharge, he is not a deserter in the sense that bars from pension. The restoration to service is ample condonation of the offense that may be charged against him and acquits of desertion for pensionable purposes. The doctrine upon which this ruling is based was distinctly and fully enunciated in the departmental decision rendered May 26, 1880, in the case of James H. Brush, when, sustaining the soldier's appeal, the Secretary held, namely:

"It is true that in this case desertion is admitted by the soldier, but an examination as to the animus of that desertion shows that it was not with the purpose of aiding or abetting the rebellion, nor from sympathy with the enemy, nor with a view to the entire abandonment of the service. This is evidenced by the soldier's re-enlistment in another branch of the service in a very short time after he left that in which he first enlisted, and by his faithful service, as far as shown, and his honorable discharge from that subsequent service. He was not, then, a deserter in the sense that he left the service to go to the enemy, nor in the sense that he left without the intention to return to the service."

The principles underlying the ruling in the Brush case are explicitly applicable to the appeal now under consideration.

2. The record of desertion lingering in the War Department against a claimant for pension may be evidence, but is not proof of actual desertion from the service, and in various instances it would be flagrant injustice to claimants to hold such record as conclusive in itself against a soldier's claim for pension. The mere record entails no forfeiture in the absence of trial and conviction for the alleged offense. But the granting of pension is not designed as a reward, nor the withholding of it as a punishment, for acts done in the service. Rewards are given for service; punishments are inflicted for offenses; but pensions are conferred, by the general law, for disabilities alone, contracted in the line of duty. Rewards and punishments alike may be bestowed in the service, but a pension can not be granted to a soldier until after his discharge. Hence, it follows that, inasmuch as a soldier, so long as he remains a deserter, is not discharged, but is, constructively, in the service, he can not be recognized as an eligible claimant for pension. Therefore, a formal discharge from the service terminates the status of desertion and places the soldier in the attitude of a lawful claimant for pension on account of disabilities incurred in the service. A formal discharge is equivalent to a pardon or to an acquittal, inasmuch as a soldier who is discharged is no longer a deserter and should not be held to be under any disability on account of desertion "in the prosecution of a claim for invalid pension." (See section 4 of act approved March 2, 1889.)

Adhering to the foregoing views as embodying the spirit and purpose of the law, I respectfully overrule the ground upon which the rejection of this claim was based; and the papers are returned to you for the adjudication of the case



in the light of the evidence going to show the origin of the alleged disabilities in the service and line of duty.

Thus, Mr. Chairman, it will be seen that this officer has followed the law and done his duty.

Mr. BRECKINRIDGE, of Kentucky. I want to submit a suggestion or two upon the point of order.

The CHAIRMAN. The Chair will be glad to hear the gentleman upon the point of order.

Mr. BRECKINRIDGE, of Kentucky. The point of order arises under the second section of Rule XXI:

That no appropriation shall be reported in any general appropriation bill—

Leaving out the clause that does not affect this—

for any expenditure not previously authorized by law.

Now, the creation of an office indubitably is a matter of legislation, and not a matter of appropriation. There can be no distinction clearer than that. Congress legislates when it creates an office. Therefore the simple question would seem to be conclusive, Where is the law creating the "board of pension appeals?"

The CHAIRMAN. Will the gentleman permit the Chair to make a suggestion?

Mr. BRECKINRIDGE, of Kentucky. Certainly. I would be very glad to have it; for I am talking exclusively to the Chair.

The CHAIRMAN. The gentleman from Kentucky overlooks what the Chair thinks is an important provision of the rule. The next line and a half is thus:

In continuation of appropriations for such public works and objects as are already in progress.

Mr. BRECKINRIDGE, of Kentucky. I was coming to that part of the rule a little later; and therefore, with permission of the Chair, I will continue the line of thought that I had in my mind.

It would seem to be a fitting question, Where is the law creating the office of board of pension appeals? That would be conclusive on this point if such could be shown. Now, we all admit it can not be shown that there is any such statute. There is no act creating a board of pension appeals. There is no statute which creates that office or affixes to it any duties or assures to it any salary. But it is said that there is a law which gives to the Secretary of the Interior the right, and not only the right, but imposes upon him the duty, of hearing appeals in pension cases. But this does not of course create any new office, nor by imposing new duties upon him does it increase his salary or give to the Committee on Appropriations the power to report a provision in an appropriation bill increasing his salary or creating other officers as assistants of any degree or grade and paying salaries to such officers. If imposing new duties upon an officer does not give that committee power to increase his salary, surely it does not give the power to appropriate and thereby indirectly create a new office as an assistant to him. The grade of the office is immaterial; if we can thus create a board of pension appeals, then we could in like manner create the office of an Assistant Secretary of the Interior; and the argument is precisely the same, the Secretary having imposed upon him the duty of hearing appeals in cases from the Land Office and patent cases as well as in pension cases.

The mere fact that this Secretary has so many duties to perform that it is quite impossible for him to efficiently and satisfactorily perform them all may be a conclusive argument for additional legislation, but it can not confer any power under the rules of this House to report any expenditure not previously authorized by law. It may demonstrate the necessity for an Assistant Secretary or for a court or board of appeals, but it does not create the office, authorize the expenditure, or confer power on the Committee on Appropriations.

The Chair has called my attention to the language of the rule, that—

Unless in continuation of appropriations for such public works and objects as are already in progress.

Now, indubitably "public works" means such "works" as public buildings, improvements to rivers and harbors, building of fortifications, war-ships, and such public improvements—

and objects as are in progress.

Now, what is the meaning of that clause? We must take all the words in it to ascertain the construction of the entire clause; it must be an "object" that is "in progress." That looks, therefore, to the completion of a labor entered upon, of an "object" undertaken and as yet incomplete. It must be something that is being done. It must be of the nature of "public works," according to the simple maxim, *a sociis nascitur*. This clearly means appropriations to complete, accomplish, finish, this "object" heretofore, "in progress."

Now, the ordinary duties of officers in the public service can never be called "objects." This indubitably means something different from the performance of duty, something besides the ordinary daily routine of a clerk in an office. This is not, in any technical sense, an "object in progress."

Mr. SAYERS. If the gentleman will allow me. If that construction was put upon it, then there would be no restraints on the Committee on Appropriations.

Mr. BRECKINRIDGE, of Kentucky. I was going to say that it can not mean that by an "object" you can appoint a public officer.

If this clause can be thus construed it would give to the Committee on Appropriations unlimited jurisdiction to increase salaries, to create new offices, to impose new duties. It could report an increase of the salary of the Chief-Justice or to permit him to appoint stenographers and clerks and assistants to examine his cases. This is clearly not so. I can not think, therefore, that it comes under that clause. But it has been intimated in the argument made by my friend from Ohio [Mr. BUTTERWORTH] that it is not the creation of an office at all, that it is a mere increase of the force. I would say, in the first place, that the distinction is one that I think does not exist in law. I doubt very much whether an increase of force is not obnoxious to the provisions of the rule if a point of order were made. But that is not this question, and this is what I wanted to call the attention of the Chair to.

The CHAIRMAN. The Chair agrees with the gentleman on that point.

Mr. BRECKINRIDGE, of Kentucky. Very well.

The CHAIRMAN. That as to the creation of a new officer the Chair thinks, however, it would be obnoxious.

Mr. BRECKINRIDGE, of Kentucky. Now, I desire to call attention to the fact that this is the creation of a new office, and not an increase. There is no such thing under our system as an intangible, unlegislative office. There is no such thing as the right of a man to hold public office and receive a salary unless that office is created by law. We can not conceive under our Government of an office which is not in some form created by an act of legislative power, and so in this particular class of cases we are left in no doubt about it, because every officer in the Government falls under proper classification, the clerks of the classified service receiving from \$900 to \$1,800; laborers and messengers and other persons employed receiving less than \$900 are within the express terms of the statute; all officers receiving over \$1,800 are also expressly provided for by statute.

Now, what is this office? It is not a clerkship; and that is the point to which I want to call the attention of my friend from Ohio [Mr. BUTTERWORTH]. He said we were giving them clerks. These are not clerks, Mr. Chairman, for two reasons. First, because all clerks that are not named by description in the statute must fall within the classified service. Otherwise this is a repeal, or an amendment, *pro tanto*, of the law. I beg your attention to this, that you may think of it for a moment. All the clerks in the service of the United States are classified from \$900 to \$1,800. All under \$900 are also within certain provisions of the statute. All over \$1,800 are described, without exception, I believe. Of course I have not gone over the whole list; but last night I ran my eye over the Register which is published every two years, and I think there is not a place which does not fall within the classified service from \$900 to \$1,800, or under that classified service, that is not in some form or other enumerated or described in the statute creating it.

Now, this office does not come within either category. It creates an office by three indubitable *indicia*: it prescribes the mode in which this officer shall be appointed, the duties to which he shall be assigned, and the salary which shall be paid to him. He is to be appointed by the Secretary of the Interior, which indubitably is an act of legislation, for there can be no higher act of sovereignty than for us to say how a man shall be appointed. By the Constitution officers are to be appointed by the President, subject to confirmation by the Senate, except inferior officers, who, by law, may be appointed by the heads of Departments. So we make the appointment in this case by the Secretary of the Interior. If this officer were a clerk he would come within the civil-service regulations and would not, therefore, be appointed in this way. If he were not a clerk he would be appointed by the President, subject to the power of the Senate to confirm. The very words "to be appointed by the Secretary of the Interior" exclude him from the constitutional provision that he shall be appointed by the President and confirmed by the Senate, and he is excluded also from the civil-service examination, under which he would come if his salary were but \$1,800 a year. Surely, therefore, this is the creation of an office of a peculiar character.

Secondly, the bill fixes the duties of this officer. He is not a man who can be assigned, like an ordinary clerk, but he is to be a member of what is called "the board of pension appeals." Now, it must be assumed that "board of pension appeals" is a technical phrase, to have a technical construction. You, sir, are an admirable lawyer, and to you I need not make any argument to show that every word used in a statute must be so construed as to have a fixed meaning, and that we must find what meaning it is to bear if it is not set forth clearly in the statute. Now, we know what "a board of pension appeals" is. A board of pension appeals must be that particular tribunal, created now by law for the first time, which shall pass upon the appeals which are, by permission of law, carried from the Commissioner of Pensions to the Secretary of the Interior and by him assigned to that board. So this board, thus created for the first time by law—I am not now speaking of the act of the Secretary of the Interior, who, by mere order, took his clerks and assigned them to particular work, which he indubitably had the right to do, by executive order—these nine persons constitute a tribunal, not under the discretion of the Secretary of the Interior any longer, but a permanent tribunal of nine members, to be appointed by



him, who are to perform such duties as may fairly be deduced from the words "board of pension appeals." These duties, therefore, are exclusive and conclusive. The members of this board need do nothing else unless they choose to do it. They are entitled to do that work unless it is illegally taken away from them. So that we not only create an office, but we create a tribunal consisting of nine members. If you take up the provision and examine it I do not see how you can escape that conclusion.

In the third place, we affix to the members of this board a salary which takes them outside of the civil-service law and excludes them from examination under that law. Now, talking to a lawyer acting as a judge—for on points of order I assume that the Chairman of the Committee of the Whole and the Speaker always act in a judicial capacity, and I have never, I believe, without exception, on a question of order, argued anything but the point of law, because of that belief that the presiding officer wanted to do as he ought to do, namely, to ascertain what the law was—speaking in that spirit, I say it is not very important how you shall rule on this given proposition; and the reason I have made this argument somewhat more lengthy than I otherwise would have done is not because of any special care I have about these particular officers, but because I desired to submit the reasons which might make you hesitate to lend the weight of your character and authority to the dangerous doctrines propounded by the gentleman from Ohio [Mr. BUTTERWORTH], that where public duties are assigned to the head of a Department it is within the power of the Committee on Appropriations to bring in any appropriation it may see fit for any number of subordinate officers that it may think necessary for the execution of the duties assigned to that public officer. For, if this precedent be established, of course it authorizes like action in the Attorney-General's Office, which will come later, the creation of the office of Assistant Attorney-General for his own Department and for the Department of Agriculture, and it will remain a dangerous and troublesome precedent.

There was no necessity for an act of legislation creating the office of Assistant Secretary of War if this committee has power to create such an office in this way; and, if it has power, then the other committees charged with the preparation of our general appropriation bills also have the same power. Wherever an "object is in progress" and it decides that "the object in progress" is the ordinary routine duties of a public officer, the Committee on Appropriations, under the cover of the words of the rule which have been referred to, may report a provision for the appointment of any number of subordinate officers, outside of the civil-service examination, free from the power of the Senate to pass upon and confirm the appointees. This doctrine is so dangerous that I felt it my duty, as a member of the committee, to submit this argument.

Mr. SPRINGER. Will the Chair indulge me a moment—

The CHAIRMAN. On the question of order?

Mr. SPRINGER. I want to say one word on the question of order and then I want to make a reply in a few words to the remarks of the gentleman from Ohio, in regard to this case.

The CHAIRMAN. Of course the gentleman from Illinois understands that the only question open to discussion is the question of order.

Mr. SPRINGER. I understand that perfectly; but I simply ask—

The CHAIRMAN. This is a very important question; and the Chair desires to hear observations in regard to it rather than the discussion which has been going on. If the gentleman desires to address the Chair with reference to the question of order, the Chair will recognize him.

Mr. SPRINGER. Very well; then I will take occasion later to refer to the remarks of the gentleman from Ohio. As to the question of order now pending, I may say that I fully concur with the remarks just made by the gentleman from Kentucky [Mr. BRECKINRIDGE]. I assume it is not disputed that there is in the provision under discussion the creation of offices and an authority conferred upon the Secretary of the Interior to appoint to office persons who can not now be appointed, and therefore additional legislation is required in order to authorize such appointment. Now, this creation of a new office in an appropriation bill seems to me the incurring of an expenditure not previously authorized by law and hence comes within the prohibition of the rule. If we may create offices in this way there is no limitation at all upon the power of this House, in the consideration of appropriation bills, to create new offices.

Mr. BUTTERWORTH. Does not this board now exist?

Mr. SPRINGER. Certainly.

Mr. BUTTERWORTH. Now, when there was an elimination or a reduction in the number of members of the board to the extent, we will say, of six, did that create vacancies on the board or what was the effect of that upon the board?

Mr. SPRINGER. What was the original law creating the board?

Mr. BUTTERWORTH. The original law simply created a board of pension appeals. The number was fixed, I believe, at one time at six, at another time at twelve. Afterward the number was reduced. The original legislation recognized and marked out a work to be performed by this board; and the board was created for its performance, varying in the number of its members from time to time.

Mr. BRECKINRIDGE, of Kentucky. Will the gentleman have read the original act creating this board of pension appeals?

The CHAIRMAN. The Chair has the act.

Mr. BRECKINRIDGE, of Kentucky. Will the Chair have the kindness to read the provision.

The CHAIRMAN. The first act, an appropriation bill, passed at the first session of the Forth-eighth Congress, contained this provision:

Three members of a board of pension appeals, to be appointed by the Secretary of the Interior, at \$3,000 each.

Mr. BRECKINRIDGE, of Kentucky. Now, that was in the appropriation bill of 1884; and the board has been continued ever since by provisions in appropriation bills.

Mr. BUTTERWORTH. In 1886 or 1887, I believe, the board was increased to six; afterward to twelve; then the number was decreased; now we propose to increase it again.

Mr. BRECKINRIDGE, of Kentucky. The point I wished to make was this, because this is a question of law: There is no creation of a board of pension appeals by any statute, except these clauses from year to year in the several appropriation bills.

Mr. BUTTERWORTH. I do not know as to that.

Mr. BRECKINRIDGE, of Kentucky. If there is anything more I can not find it.

The CHAIRMAN. The Chair did not catch the remark of the gentleman.

Mr. BRECKINRIDGE, of Kentucky. I was saying that with my research I have not been able to find any provision for the creation of any board of pension appeals except the sentence just read by the Chair, which is contained in three or four successive appropriation bills.

Mr. SAYERS. There is no other provision.

The CHAIRMAN. The same provision, varying as to the number of members of the board, has been continued from time to time in the legislative, executive, and judicial appropriation bill.

Mr. BRECKINRIDGE, of Kentucky. But there is no other act of legislation that I can find.

Mr. BUTTERWORTH. Provision for hearing pension appeals was made, a duty was required to be performed, and this board was created for the discharge of that duty. It was an object to be performed. The number of members of the board has been fixed from time to time, having been increased or diminished, just as we might increase or diminish the number of clerks in any bureau. It seems to me that the provision now under consideration is in furtherance of the object sought by the law originally.

Mr. BRECKINRIDGE, of Kentucky. Now, I would like to ask my friend, who is an admirable lawyer, this question: If we have here a tribunal established, a board of appeals, is not the increase or decrease in the number of its members an act of legislation precisely as would be the increase or decrease in the membership of a statutory court, like the circuit court? I do not refer to the Supreme Court of the United States.

Mr. BUTTERWORTH. I do not think that this board of appeals is to be regarded as a court in the same sense that we speak of a judicial tribunal. It is a board of review.

Mr. BRECKINRIDGE, of Kentucky. That is the exact point that I wish to bring the attention of my friend to. Is there any office under our Government that is not within the classified service and therefore purely clerical, which means having attached to it certain clearly defined clerical duties, that is not fixed by law? Now, we have an officer here who has no specific duties—

Mr. BUTTERWORTH. But the duties are determined by the regulations of the Interior Department. They may have the powers limited or extended by rule. They come within the range of duties which are regulated by order of the superior officer.

Mr. BRECKINRIDGE, of Kentucky. If the gentleman will permit me a moment, I want to add also to the suggestions one that I had intended to make but omitted.

Each one of these boards necessarily holds its tenure under an annual appropriation. This is true of the board, because there is no specific act or statute creating it. The tenure of the board is of course the limitation of that appropriation bill. Precisely as the creation of the Alabama Commission, which by operation of the law has to expire at a given time. Now, as the only act authorizing these appointments is the annual appropriation bill, then of course it falls with the expiration of the act itself, its tenure being the life of the particular appropriation bill which carries it.

The CHAIRMAN. The question presented is quite new to the Chair. Legislation of like character has been adopted on this bill for the past five years, but it appears from the record that no point of order was urged against the provision, and the question was, therefore, rather one of the propriety of the proposal than of its regularity on a general appropriation bill.

It is perfectly clear to the Chair that if this were the first attempt to make provision for a board of pension appeals in the office of the Secretary of the Interior on a general appropriation bill and under the present rules of the House, the point of order would be well taken.

The policy of the Government, in providing for its officers in the Executive Departments and for the necessary subordinate and clerical force in them, has been fixed by statute.

The existing law is found in the Revised Statutes, pages 26 and 27.

Four classes of clerks and three salaries are provided for.



The Chair understands that by statute every office in an Executive Department above the grade of a fourth-class clerk, the salary of which grade is \$1,800 per year, is provided for in terms; the office is named and salary provided for, and no question is made that to provide for any office of such higher character legislation must be had in some other way than in an appropriation bill.

The provision in this bill against which the point of order is urged is embodied in the paragraph on page 76, in the following words:

Nine members of a board of pension appeals, to be appointed by the Secretary of the Interior, at \$2,000 each.

The members of the proposed board do not come within any of the classes of employes provided for by the Revised Statutes.

The first provision the Chair finds in reference to this subject, as was remarked during the argument on the point of order, is in the legislative appropriation act of 1884, where there was provision made for three members of the board of pension appeals to be appointed by the Secretary of the Interior, at a compensation of \$2,000 per annum. That bill became a law, and an examination of the RECORD during the consideration of the bill shows that no point of order was made against the provision at that time. In subsequent appropriation bills, coming down to the appropriation bill for the present fiscal year, the same provision has been carried on the different bills for a board of pension appeals, but the number constituting the board has varied in accordance with the exigencies of the service, as was shown to be necessary from time to time.

But the question here presented is whether or not, these offices only being provided for in an annual appropriation bill, the tenure of the office ending with the life of the bill, that is to say, on the 30th day of June of each year—whether the renewal of the provision in succeeding appropriation bills renders the proposition obnoxious to the point of order. That can only be determined, in the judgment of the Chair, by the consideration of clause 2 of Rule XXI. The Chair will read the entire clause:

2. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

If this provision is properly in this bill at all, the point of order being raised against it, it must be, in the judgment of the Chair, because it is connected with an "object already in progress" under the statutes of the United States. Now, it is urged in behalf of those opposing the point of order that because an appeal is allowed from the Commissioner of Pensions to the Secretary of the Interior, and because it is a physical impossibility for the Secretary of the Interior to personally perform all of the duties devolving upon the office he holds, and because it has been thought advantageous, in the performance of the duties devolving upon the head of that Department to render the assistance in the direction indicated by this provision by a board of pension appeals in his office, as a part of the executive force of the office, that therefore it is one of the "objects" contemplated by the rule "as already in progress." The Chair was inclined to think, on the adjournment of the House yesterday, that that point was well taken; but upon consideration, and upon such reflection as the Chair has been able to give to the matter later, the Chair is inclined to think that it can not be so held.

The rule imposes this limitation on the power of the House as to legislation on appropriation bills: that no appropriations shall be made thereby for any expenditure not previously authorized by law, unless such proposed expenditure is in continuation of a public work or an object already in progress; that is, a public work or object previously authorized by statute and not yet completed.

"Public works" contemplated, in the judgment of the Chair, clearly contemplates tangible matters, as buildings, roads, and such other matters as readily suggest themselves.

So the question only remains, Does the expression "objects already in progress" include the duties to be performed by this board during the ensuing year?

It must be remembered that these duties are only to hear and determine appeals from the Commissioner of Pensions to the Secretary, and to be settled by that officer, but, as it is practically impossible for the Secretary to do this, the performance of that duty is devolved upon this board as part of the force in the Secretary's office.

The duties are only part of the ordinary duties of an important executive office, routine duties to be performed as the papers come to the Secretary's office day by day.

These duties so to be performed are not, in the judgment of the Chair, the "object in progress" contemplated by the rule.

The clause in the rule contemplates specific legislation for a certain purpose, for which provision has been made by law, but which specific legislation has not been consummated by the attainment of the object, under the appropriation made for it, and for which the appropriation made has proved insufficient.

In such case the rule allows an appropriation on a general bill to complete the "object." But the clause does not include the ordinary performance of regular routine duty by the clerical force in a Department.

The clause against which the point is raised proposes at least six new officers, not contemplated by the statute, at a salary above that provided for in the classified service, and so is new legislation, because it is not an increase of the clerical force recognized in the Revised Statutes.

Because of this and that the duties do not come within the clause of "objects as are already in progress," as contemplated by the rule, the Chair is impelled to hold that the clause in the bill is obnoxious to the point of order, and it will be sustained.

Mr. BUTTERWORTH. I will just say that the additional force is absolutely necessary, but the question was by no means free from doubt.

Mr. BRECKINRIDGE, of Kentucky. I was going to suggest to the gentleman from Ohio an amendment which I had drawn, under the belief that the Chair was going to decide the point of order as he has, to give as many clerks as were thought necessary as clerks of class 4.

Mr. BUTTERWORTH. To be assigned to that duty?

Mr. BRECKINRIDGE, of Kentucky. To be assigned to such duties as the Secretary of the Interior may deem necessary.

Mr. BUTTERWORTH. I think it is possible that this may be amended elsewhere, where I understand restrictions are not so close, and the Senate can add them there. I do not know, Mr. Chairman, what the desire of the Secretary would be. I think this increase is necessary for the dispatch of public business, but I will let it go.

Mr. SPRINGER. In order to submit the remarks which I desire I move to strike out of lines 10, 11, and 12 the words "nine members of the board of pension appeals to be appointed by the Secretary."

The CHAIRMAN. That clause is not in the bill, and it has already been ruled out on a point of order.

Mr. BUTTERWORTH. Do I understand that the ruling takes out the whole number, or only the increase?

Mr. CANNON. I expect they all stand together.

The CHAIRMAN. The Chair does not think that it is limited to the increase, but is of opinion that the whole clause is obnoxious to the rule.

Mr. SPRINGER. As I understand that the Chair has ruled out the whole of these lines, I now move to strike out the last word of the paragraph.

The gentleman from Ohio [Mr. GROSVENOR] cited the case of Henry B. Kaufman, which was decided by the board of pension appeals some time ago, by the Assistant Secretary of the Interior, in which that officer stated as follows:

I maintain, therefore, that a "dishonorable discharge" from the service, resulting from a court-martial and inflicted as a penalty, as it necessarily must be, on account of some offense against the service, can not affect a claim for invalid pension, and, hence, can not involve a forfeiture of right to pension.

In support of this decision the Assistant Secretary cites the opinion of Judge-Advocate-General Holt, on page 373 of the Digest of Opinions of the Judge-Advocate-General, and in order to support the opinion of Judge Holt the case of *The United States vs. Kelly*, 15th Wallace Reports, page 34, is cited. The Assistant Secretary draws the following conclusion from that decision of the Supreme Court:

1. A "dishonorable discharge" is a penalty which can be inflicted by only a court-martial for an offense against the regulations of the military service;
2. A court-martial has no jurisdiction over any question involving either a claim or a right to pension; and, therefore,
3. The sentence of a court-martial, inflicting the penalty of "dishonorable discharge," can not affect either a soldier's claim or right to pension, for, when said penalty is executed, all the punishment which the Government may inflict is thereby exhausted upon the soldier for the offense which he may have committed.

Now, this conclusion is supported, as alleged by the Assistant Secretary, by the decision of the Supreme Court in 5th Wallace. I want to call the attention of this committee to the syllabus in that case, which is as follows—

Mr. SAYERS. That covers the whole matter.

Mr. SPRINGER. That is the whole question, and, in order to show, I will read the whole of it:

A soldier who had deserted, but was restored to duty by order of his department commander, without trial, on condition that he make good the time lost (about two months), and who complied with the condition, and was honorably discharged at the expiration of his term of service, held entitled to bounty, notwithstanding his desertion.

Then follow the facts:

This was an appeal by the United States from a judgment of the Court of Claims in favor of one Kelly, lately a soldier in the Army of the United States, for an unpaid balance of bounty money. The claim was denied by the Pay Department, on the ground that the bounty had been forfeited by desertion. The case as found by the court was that the petitioner had deserted, but was restored to duty by order of his department commander without trial, on condition that he make good the time lost, about two months; that he complied with the condition and was honorably discharged at the expiration of his term of service.

Then follows the argument of the counsel in the case, after which comes the decision, and the Chief-Justice delivered the opinion of the court:

We do not think that, under the circumstances of the present case, the bounty was forfeited. The able lawyer who fills at present the post of Judge-Advocate General, in a case similar to the present, held that "the honorable discharge of the deserter was a formal final judgment passed by the Government upon the entire military record of the soldier, and an authoritative declaration by it that he had left the service in a status of honor; that as such it dispensed altogether with the supposed necessity that the soldier must obtain bounty by removal



by order of the charge of desertion from the rolls, and amounted of itself to the removal of any charge or impediment in the way of his receiving bounty." With this opinion we entirely concur. Judgment affirmed.

Now, that is all there is in that case, except the argument between the lawyers in the case. Now, upon that decision, which was that an honorable discharge removed the imputation of desertion which had occurred pending the service—

Mr. STEWART, of Vermont. Is the phraseology of the statute giving bounties precisely the same as the statute of the general law which gives a pension to soldiers?

Mr. SPRINGER. I believe it is, but I have not examined so as to know.

Mr. STEWART, of Vermont. I think that the phraseology is very general.

Mr. SPRINGER. That is possible.

Mr. STEWART, of Vermont. Is this the case that was cited by the gentleman from Ohio?

Mr. SPRINGER. It is the case cited by him, and I maintain that the decision of the Supreme Court does not support the view or conclusion which was drawn by the gentleman from Ohio on that case.

Mr. BUTTERWORTH. I understand my friend from Kentucky to make this point of order with a view of having us proceed in an orderly way. The Chair has ruled this out. I want to move, if the point of order is not made, to substitute "seven" for "nine," so that the clause will read this way:

Insert in line 10, beginning after the word "building," "seven members of a board of appeals, to be appointed by the Secretary of the Interior, at \$2,000 each."

Now, I have but this to say: Under the ruling of the Chair this is obnoxious to the point of order, but our investigations disclose the fact that this board is absolutely indispensable for the discharge of the business of the Pension Office. If the cases pending there, pending before the board of appeals, pending on appeal, are to be disposed of at all, this tribunal is indispensably necessary.

Mr. BRECKINRIDGE, of Kentucky. The point of order is saved, the gentleman understands.

Mr. BUTTERWORTH. Yes; I have said that if the point of order is made this must go out; but the rule having been vindicated I ask now of the House, as a matter of grace, that, in view of the necessities of the service, it will consent to make this provision for a board of seven.

Mr. BRECKINRIDGE, of Kentucky. Mr. Chairman, for myself I feel bound to make the point of order, not merely for the vindication of the rule, but as a matter of judgment. My judgment may be mistaken, but I must act upon it, and my judgment is that the board of pension appeals is itself a mistake. Having looked into the matter with some care, I believe that it is not only unnecessary, but positively hurtful. I do not see why three men should constitute a board of appeals to pass upon matters that come up from that particular department. I think it would be better, instead of having a board, to have individuals, and I believe the work would be better done by good clerks, familiar with the business and working under the eye of the Assistant Secretary of the Department, than by these gentlemen, who, by their salary of \$2,000 a year and their appointment by the Secretary of the Interior, are taken outside of the civil-service examination and obtain their places, which are of a semi-judicial character, or may obtain them, for reasons other than fitness. My own judgment is that the policy is one which, instead of being continued, ought, in the interest of the pensioners as well as in the interest of the Government, to be discontinued, believing as I do that the work can be better done without a board of appeals than with it. I do not mean to say that the right of appeal ought to be restricted, nor do I mean to say that appeals ought not to be granted. What I do mean to say is that the creation of a board, to come in between the Commissioner and the Secretary, with the power to write opinions and to act as a judicial tribunal, is a mistake in that executive office, as much so as I think it would be to create such boards for the Land Office and for the Patent Office, which also have appeals to the Secretary of the Interior.

Mr. BUTTERWORTH. I only want to say, in response to the remark of the gentleman from Kentucky, that if it is desired to have cases which require a scrutinizing legal mind to review the testimony and to apply the law dealt with in that way, it is important that such salaries shall be paid as will secure competent men.

Mr. SAYERS. Competent men have not been secured yet.

Mr. BUTTERWORTH. I am stating the general proposition. If I believed, as I do not believe, that the honorable Secretary would appoint any man whom he did not believe to be thoroughly competent and deserving—

Mr. BRECKINRIDGE, of Kentucky. I did not mean to criticize the present Secretary. I simply meant to say that where the appointments of this kind are left without restriction we all know that influences are sometimes brought to bear. I agree with the gentleman that if we are going to make these offices semi-judicial there ought to be a better salary, and for my own part I would rather pay two men \$3,000 a year each than three men \$2,000 each.

Mr. BUTTERWORTH. Well, the salary can be arranged if it is too high or too low. I submit this proposition to the House knowing,

as every gentleman here knows, that the docket, if I may speak of it as a docket, is overloaded, and that we must either have the force necessary to do the business or these pensioners must bide their time or go to heaven without their pensions.

Mr. ENLOE. Mr. Chairman, I do not object so much to the character of the board of pension appeals which might be appointed as I object to the character of the board of appeals which exists to-day. I think the best evidence the Interior Department could give to this House that it ought to make an appropriation for this purpose would be to remove the incompetent men who now constitute the pension board of appeals, or a portion of that board, and put in men with sufficient legal ability and training to give opinions which would command respect. I think, as I said yesterday, that as it is now, it constitutes a sort of bastard law factory in the Interior Department, and I think it ought to be disinherited, and I hope that no provision will be made here for its continuance. I would infinitely prefer to take the judgment of the Commissioner of Pensions rather than the judgment of a board constituted as this is, made up of a lot of clerks who are not selected with reference to their special training or qualification for the duties of the office.

Mr. HOLMAN. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Kentucky [Mr. BRECKINRIDGE] renew the point of order?

Mr. BRECKINRIDGE, of Kentucky. I do.

Mr. HOLMAN. Is the point of order still pending?

The CHAIRMAN. It is, and the Chair is prepared to rule upon it.

Mr. HOLMAN. It seems to me very clear, Mr. Chairman, that this point of order is well taken. I understand the proposition is to restore this board as it stood during the last six years.

The CHAIRMAN. The amendment of the gentleman from Ohio [Mr. BUTTERWORTH] is to insert "seven" in place of "nine."

Mr. BUTTERWORTH. I will explain to the gentleman. The board now consists of three. The proposition was to increase it to nine, under the recommendation of the Department. The point of order was made against that, not only against the increase in the number of members, but against the entire provision, and the point was sustained; and now, in view of the requirements of the service, I have appealed to the House to insert "seven" instead of "nine."

The CHAIRMAN. And on that proposition the gentleman from Kentucky [Mr. BRECKINRIDGE] makes the point of order.

Mr. HOLMAN. So that the question is upon the proposition to organize a board of seven members instead of nine.

The CHAIRMAN. The question of order pending must first be disposed of.

Mr. HOLMAN. It seems to me that the gentleman from Ohio [Mr. BUTTERWORTH] will find it very difficult to distinguish between this proposition and the other.

Mr. BUTTERWORTH. I do not attempt to distinguish between them. I know the Chair will sustain the point of order if made. My amendment is, of course, equally obnoxious to the point made by the gentleman from Kentucky, but in view of the accumulation of work there and the necessity of having it dispatched I have appealed to the House—recognizing the point of order, but not making it—to insert a provision fixing the number of members of this board at seven.

Mr. SAYERS. Mr. Chairman—

The CHAIRMAN. The Chair is prepared to rule.

Mr. SAYERS. In reply to the gentleman from Ohio—

The CHAIRMAN. It is a question of order pending, and no reply is necessary.

Mr. SAYERS. Just a moment.

The CHAIRMAN. The Chair desires to further the progress of the bill and regards himself as having a responsibility in this matter.

Mr. BUTTERWORTH. I withdraw the proposition.

Mr. KERR, of Iowa. I move to insert "three." This motion, I believe, is not subject to a point of order.

Mr. SAYERS. I raise a point of order on that motion.

The CHAIRMAN. The gentleman from Iowa [Mr. KERR] moves, as the Chair understands, to insert a clause (for the clause which was reported in the bill has been stricken out) providing for a board of pension appeals to consist of three members, at a salary of \$2,000 a year. Upon that the gentleman from Texas makes a point of order. [Cries of "Rule!" "Rule!"] On this question the Chair will hold, as on the former proposition, that it is obnoxious to the point of order.

The Clerk read as follows:

General Land Office: For the Commissioner of the General Land Office, \$4,000; one Assistant Commissioner to be appointed by the President, by and with the advice and consent of the Senate, who shall be authorized to sign such letters, papers, and documents and to perform such other duties as may be directed by the Commissioner, and shall act as Commissioner in the absence of that officer or in case of a vacancy in the office of Commissioner, \$3,000; chief clerk, \$2,250; two law clerks, at \$2,200 each; three inspectors of surveyors-general and district land offices, at \$2,000 each; recorder, \$2,000; principal clerk of private land claims, principal clerk of public lands, principal clerk of surveys, and eight chiefs of division, at \$2,000 each; two law examiners, at \$2,000 each; ten principal examiners of land claims and contests, at \$2,000 each; thirty-two clerks of class 4; sixty-two clerks of class 3; seventy-two clerks of class 2; seventy-eight clerks of class 1; fifty-six clerks, at \$1,000 each; and fifty-five copyists; two messengers; nine assistant messengers; twelve laborers; and six packers, at \$720 each; in all, \$544,750.

Mr. BRECKINRIDGE, of Kentucky. I rise to make a point of or-



der. The Chair will observe this clause, commencing in the twentieth line on the seventy-eighth page:

Principal clerk of private land claims, principal clerk of public lands, principal clerk of surveys, and eight chiefs of division, at \$2,000 each.

This, I submit, is a change of existing law. The fact that an increase is made is very frankly and clearly stated in the report of the committee, on page 5.

The CHAIRMAN. Is it understood there is no disagreement as to the facts?

Mr. BRECKINRIDGE, of Kentucky. So I understand. The report states—

An increase is made of three principal clerks and eight chiefs of division at \$2,000 each, in lieu of three principal clerks and eight chiefs of class 4, at \$1,800 each.

The Chair will observe that I do not make my point of order against a mere increase of salary. My point is that this provision takes these eleven clerks out of the operation of the civil-service law, and thereby changes the existing law. It is proposed to take eight clerks of class 4 and make them chiefs of division; and the other three clerks, now clerks of class 4, are virtually put in charge by being designated as principal clerks of their divisions.

The effect is to take these eleven clerks, increase their salaries from \$1,800 to \$2,000, and exempt them from the operation of the civil-service law. Thus a change is made in the mode of appointment, because under the existing law these clerks would be appointed by the head of the Department upon the certification of the civil-service examiners. Under the change of law here proposed they would probably be appointed by the President, as the appointing power is not by the bill lodged with the head of the Department. They would, I presume, be appointed by the President, subject to confirmation by the Senate; for I suppose, according to the decision just made, officers receiving over \$1,800 a year are appointed by the President under the constitutional provision, unless Congress in pursuance of the power granted to it as to "inferior officers" places the power of appointment in the heads of Departments.

Mr. BUTTERWORTH. I could not hear my friend very clearly, but I take it the statement he made is exactly accurate. At the request of the Commissioner of Public Lands we have provided for eight chiefs of division. There is no doubt about the necessity for this provision. There have been eight divisions, and the acting chiefs have been \$1,800 clerks. We have made provision for eight chiefs of division. If this changes existing law, of course it is obnoxious to the rule. Then there are three clerks authorized, as my friend says, by statute, whom we make chiefs of division, increasing their salary by the addition of \$200. That is the exact fact. If this be considered obnoxious to the rule, then later on I shall want to move an amendment simply restoring the old order of things.

Mr. BRECKINRIDGE, of Kentucky. I suppose there is really no dispute between us that this does change existing law, because it takes these clerks out of the category of clerks of class 4 and makes them chiefs of division; and it also changes the mode of appointment.

The CHAIRMAN. As the question of fact appears to be agreed upon on both sides (the Chair is not familiar with the matter, but merely accepts what appears to be the agreement) the Chair is of opinion that the point of order should be sustained.

Mr. BUTTERWORTH rose.

Mr. DOCKERY. I had prepared an amendment to strike out these increases and insert the provision of the old law, but I yield to the gentleman from Ohio.

Mr. BUTTERWORTH. I move the amendment which I send to the desk.

The Clerk read as follows:

On page 78, line 20, after the word "dollars," insert "three principal clerks at \$1,800 each," and in line 25 strike out "thirty-two" and insert "forty."

The amendment was agreed to.

Mr. DORSEY. I move the amendment which I send to the desk.

The Clerk read as follows:

In lines 16 and 17 strike out "chief clerk, \$2,250," and insert "chief clerk \$2,500."

Mr. DOCKERY. I make the point of order against that amendment.

The CHAIRMAN. The point is that the statute provides the salary?

Mr. DOCKERY. That it changes existing law.

The CHAIRMAN. The point of order has to be sustained.

Mr. CARTER. Mr. Chairman, I offer the amendment I send to the desk.

The Clerk read as follows:

Amend, by inserting after the word "three," on line 1, page 79, the following: "And eight additional clerks of said class 3 for this fiscal year."

Also amend, by inserting after the word "two," on line 1, page 79, the following words: "And eight additional clerks of said class 2 for this fiscal year."

Also, by inserting, after the word "one" and before the word "fifty," on line 2, page 79, the following: "And three additional clerks of said class 1 for this fiscal year."

Also amend, by inserting after the word "each," on line 3, page 79, the following: "And four additional clerks, at \$1,000 each, for this fiscal year."

Mr. CANNON. There has been already a change in part of that.

Mr. CARTER. At the suggestion of gentlemen around me I will offer what I now send to the desk as a substitute for the amendment just read.

The Clerk read as follows:

Strike out the word, "sixty-two," in line 25, of page 78, and insert in lieu thereof the word "seventy." Amend by striking out the word "seventy-two," in line 1, on page 79, and inserting in lieu thereof the word "eighty." Also strike out at the termination of line 1, and the beginning of line 2, the word "seventy-eight" and insert "eighty-one." Also, in line 2, of page 79, strike out "fifty-six" and insert in lieu thereof "sixty."

Mr. CARTER. Mr. Chairman, the necessity for additional service in this Department is too well known, I think, by the House to require any extensive remarks or comments upon it.

There are now pending in the General Land Office over 229,000 cases undisposed of. In September last there were 292,886 cases pending awaiting the action of the Department. Since that time a slight reduction has been made, but the business of the office must necessarily increase during the coming year, and in view of that increase it is quite improbable that the present force can continue to diminish the business on hand. It is safe to say that at least 500,000 settlers, in twenty States of the Union, are interested in the expeditious settlement of this class of business by the Government. They are individuals who can not and should not be asked to suffer from continuous delay.

The proposed amendment will add about \$38,000 to the appropriation for the General Land Office and at the same time will add about twenty-three additional clerks. The clerks proposed will be of a class efficient and of capacity to serve in the contest and other divisions, and with cases generally where propositions of law are constantly occurring, requiring capable lawyers for prompt and satisfactory adjustment of the questions that arise. In the contest division of the Land Office alone there are over 10,000 cases awaiting decisions. In each of these cases at least two persons are interested; and it is a fact that the contests are three years behind to-day, and there is no reasonable probability that the present force will be able to dispose of the accumulated business, to say nothing of the increase, within the next year.

The summary showing the number and area of entries of the public lands pending at the close of the week ending April 19, 1890, on which patents have been applied for is instructive, and shows the following facts:

	Number of entries.	Approximate number of acres embraced.
Division B, approved cases awaiting patent.....	10,248	1,639,680
Division C, final entries posted, but not approved.....	52,089	8,334,240
Division C, final entries posted, but suspended.....	.....	.....
Division C, final entries not posted nor approved.....	50,000	8,000,000
Division D, private land claims pending.....	3,008	.....
Division D, donation land claims pending.....	122	.....
Division D, scrip locations pending.....	866	.....
Division D, Indian entries pending.....	157	.....
Division D, Santee Sioux entries pending.....	.....	.....
Division F, entries in railroad limits pending.....	4,038	484,560
Division F, application to enter lands within railroad limits.....	.....	.....
Division F, railroad selections pending.....	2,432	291,840
Division F, wagon-road selections pending.....	.....	29,854,753
Division G, pre-emption cases (ex parte) pending.....	83,727	305,246
Division G, town-site entries pending.....	39	13,396,320
Division G, town-lot entries pending.....	17	.....
Division H, contest cases, all classes, pending.....	10,046	1,607,360
Division K, cases in conflict with swamp lands pending.....	344	55,160
Division N, mineral and coal entries pending.....	3,238	.....
Division N, mineral and coal entries suspended pending.....	2,100	1,003,248
Division N, mineral entry contests pending.....	82	.....
Division N, agricultural entries pending.....	17	.....
Division O, cases pending, homesteads, cash entries, etc., awaiting action.....	.....	.....
Division P, cases pending alleged fraudulent.....	7,382	1,345,000
Total number of cases pending and area embraced..	229,952	66,317,467

The Commissioner of the General Land Office, who has shown himself by work done in the office to be a most efficient man and well calculated for it, estimates that a much greater increase of clerical force than that contemplated by this amendment is necessary. But he further suggests that the amount of room at the disposal of the Commissioner and now under the control of the General Land Office is insufficient to accommodate a greater number than that contemplated by the amendment as the increase of the force.

But, Mr. Chairman, in justice to the large number of claimants seeking attention at the hands of the Government and in order to dispose of the large number of claims pending in the Interior Department, I think that it is but right and proper that the working force should be extended as far as facilities can possibly be provided or new quarters supplied by the Government.

I submit in connection with this statement a letter from the Commissioner of the General Land Office, which fully explains the condition of affairs, and I will ask the Clerk to read it.



The Clerk read as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,  
Washington, D. C., April 22, 1890.

SIR: I have the honor to state that the provisions made in the legislative bill for the ensuing fiscal year for an increase in the clerical force of this office will be inadequate for the actual necessities of the public service.

The clerical force has not, until within the past few months, kept abreast of current business received. Under improved methods recently adopted and with the degree of industry and efficiency which now characterize the work of this bureau, there is a decided increase of business accomplished in excess of new business received. To illustrate, within the last six months over 60,000 more final entries have been approved than have been received. But there are still 240,000 final entries in this office awaiting action.

To dispose of this mass of business would require the utmost diligence on the part of the office force for many months, providing no further entries were received. But the number of entries received continues without reduction, and the establishment of the several new offices by recent legislation will, it is believed, augment the aggregate of current work, and the arrearages will probably remain for an indefinite period unless relief is afforded, thus jeopardizing and imperiling the interests of settlers and causing them much hardship, expense, and inconvenience.

A careful estimate indicates that this office is unable, with the prospective space available, to accommodate the full number of additional clerical force demanded by the best interests of the public service, but it is my conviction that a net increase of at least fifty clerks should be provided for in the pending appropriation bill. Some of the work requires talent and acquirements above the average, and it is only by the payment of adequate salaries that such can be secured.

The classification of the fifty clerks and copyists required should be as follows:

Class 4, four; class 3, ten; class 2, ten; class 1, six; class \$1,000, five; copyists at \$900, five; copyists at \$800, ten—making an increase of thirty-five over the number provided in the appropriation bill as introduced.

Very respectfully,

LEWIS A. GROFF, *Commissioner*.

Mr. CARTER. Now, the work which has accumulated in this General Land Office must be disposed of some time by the Government. It will not cost one penny more to dispose of it now than it will next year or the year after or any other time. It will be infinitely more convenient and satisfactory to the settlers, who had reason to believe that the Government intended to execute its contract with them in good faith when they went and settled on these lands.

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

Mr. CARTER. Certainly.

Mr. DOCKERY. How far is the Land Office behind in the transaction of business?

Mr. CARTER. It is about three years behind in the contest cases; in the mineral-land division about two years, and the pre-emption division about eighteen months. And let me suggest to the gentleman—

Mr. DOCKERY. Before the gentleman proceeds let me state that the chief clerk of that Department stated to the Committee on Appropriations that the office is behind about eighteen months, on an average.

Mr. CARTER. I believe it is more than eighteen months behind, on an average, at this time.

Mr. DOCKERY. Will the gentleman state the amount of increased force asked for?

Mr. CARTER. We ask for twenty-three additional clerks, at a cost of about \$38,000.

Mr. DOCKERY. As I understand the amendment of the gentleman, it provides for an increase of clerks, in line 25 of page 78, from sixty-two to seventy. That is evidently an error, because the number was originally thirty-two, and it has been amended by an increase of eight, making provision for forty clerks of class 4; so that the amendment that the gentleman offers really makes an increase of thirty clerks of class 4.

Mr. CARTER. The amendment introduced eliminates that which was intended and covered in line 25, that motion or amendment having been previously agreed to, and forty substituted would leave us under the present amendment twenty-three instead of twenty-seven clerks; so that the pending amendment contemplates the employment of only twenty-three additional clerks. The amendment previously offered substituted forty for thirty-two, on line 25, page 78, thus providing for eight additional clerks. The eight added to the twenty-three would give an additional number of thirty-one. The Commissioner requested an addition of fifty to his clerical force, but it is entirely desirable to have the number the amendment provides, for the reason that higher priced clerks, as lawyers, should be added to the contest division for the examination of important questions there pending, and such talent could not be procured for an ordinary copyist's wages.

Now, Mr. Chairman, it may further be profitably suggested that postponement of dispatch of this business of the United States will entail a greater expense upon the Government than to dispose of it during the present year, and for this reason: A settler on the Western prairies becomes solicitous after two or three years with reference to the state of his application for a patent, and he writes down to the General Land Office to find out what had become of his application. This letter requires a complete investigation, and as these letters multiply an increased force is detailed from time to time to answer the queries why the Government is delinquent in the transaction of its business. Answering these letters retards the natural progress of the business of the office, and the business becomes water-logged in the

face of these accumulating letters, which are constantly increasing the expenses and decreasing the efficiency of the force there at work. Hence, as a matter of economy it is of first importance that the accumulated business be disposed of at the earliest practicable date.

Mr. BUTTERWORTH. Mr. Chairman, the Commissioner of the Land Office does not seem to be able to hold to his purpose many consecutive days. When he appeared before the committee he asked for an increase of twenty-eight. We granted him an increase of fifteen persons; and now he addresses a number of gentlemen in the House urging an increase of nearly or quite one-third more, on statements that he has made to them, but did not make to the committee.

Now, as to the increased business of the office. It is in arrears, but there is no pretense that it is going further back, or at least an examination of the parties in charge of the Land Office failed to disclose such a fact. The officers of the Land Office were before the committee and we made up these estimates with reference to meeting fairly the requirements of that service.

My friend is aware that certain branches fell so far in arrears because a late Commissioner of the Land Office proceeded on the theory that every claim was wrong and needed further supervision and inspection, and hence business in the office accumulated. But now it is being got out of the way, and we have allowed an increase, such as we have, all along the line.

We have tried to build up these waste places. We can not do it all at once and meet the full demand of all these gentlemen at once. The fact is, they are accustomed to ask for all they need and to allow something for contingencies, or, as has been suggested to me, for "shrinkage." There is a crying demand for the dispatch of business, and we have tried to meet that demand by granting an increase of fifteen persons where twenty-eight were asked. Now, I would say to my honorable friend from Montana that we can not grant all the increase asked for. If we did it would astonish the country. I will say to my friend that we could hardly furnish the public service with the large increase that is asked for. There is a very large increase. While it is the policy of the Government to restrict the expenses to the smallest figure compatible with a reasonable and proper discharge of the public business, I know my friend suggests just what he believes is required; but it is impossible, and it could hardly have been expected that we could grant the Land Office one-third larger service in the department suggested.

Mr. CANNON. Will the gentleman from Ohio allow me right there?

Mr. BUTTERWORTH. Certainly.

Mr. CANNON. What I wanted to ask was this: Is it not true that in the crowded condition of the Land Office, with the large force that it now has and with the great bulk of records, if the increase were given for the purpose now under consideration it is highly probable that the additional force could not be properly utilized?

Mr. BUTTERWORTH. I was just coming to that. It is not only probable, but it is a fact; and I submit it is a matter of my personal knowledge that they are in each other's way in the dispatch of the business. If this increase of force was given, without there were additional room provided to that which the Land Office now has, it would not facilitate the dispatch of business, as the clerks would be in each other's way. Every room is so crowded with that work that their papers are not at command. I think that if the present force were reduced 25 per cent. it would add 15 per cent. to the condition of the bureau. They want ample room for working facilities now; to add this great increase is simply not to add to the efficiency, but to prevent the force there at present from being thoroughly utilized.

Mr. DOCKERY. Mr. Chairman, the Acting Commissioner of the General Land Office appeared before the Subcommittee on Appropriations and stated that the business of that office was eighteen months behind, on an average, and asked for twenty-eight additional clerks. The committee, after examination, gave that office fifteen additional clerks. Now, I desire to call the attention of the House, in connection with the proposition of the gentleman from Montana [Mr. CARTER], to the condition of the force in that office, as appears from a letter of the Commissioner under date March 28 of the present year, addressed to the chairman of the Committee on Appropriations. I believe that I voice the sentiment of this side of the House when I affirm that we desire to be liberal in the appropriation of public money for the support of the Land Office. We desire to provide all necessary clerical force so that the claims pending there may be promptly adjudicated and patents issued. But, under date of March 28, Mr. Redway, the Acting Commissioner of the Land Office, in a letter addressed to the chairman of the Committee on Appropriations, writes as follows:

SIR: Referring to a verbal inquiry made on the 27th instant by one of your committee as to the efficiency of the clerical force of the General Land Office, I have the honor to state that the clerical force of this office embraces about forty clerks and copyists whose efficiency may be said to be below the average of others in their respective grades. Four of these receive annual salaries of \$600, seven \$800, four \$1,000, five \$1,200, eleven \$1,400, eight \$1,600, and one \$1,800. A few of these have been long in the service and their partial lack of efficiency is due to infirmity and old age. None are entirely worthless. It may be proper to add that the office contains a still larger number of clerks who are above the average of their respective places in efficiency and who merit increased compensation.

Now, Mr. Chairman, notwithstanding we had the report of the Acting



Commissioner which reveals the fact that there were forty inefficient clerks in that bureau, and some of them drawing the highest salaries in the classified service, we yet thought it proper to make an increase in the clerical force to the number of fifteen. We erred, if at all, on the side of liberality; but I submit that when the gentleman from Montana comes here with an amendment providing for twenty-three additional clerks I, as one member of this House, must protest against any further increase of the force of that office until the Commissioner discharges these inefficient clerks, so that the business of the people may be promptly dispatched. The reform should come from the Commissioner himself. After having stated to the committee that he required only twenty-five additional clerks, instead of sending letters to members on the floor, asking for other clerks that he now says he needs, he should discharge the inefficient part of his force and replace it with a force fully equipped for the discharge of the duties required by law, and for which they are fully compensated. I am opposed to the amendment of the gentleman from Montana.

Mr. PETERS. Mr. Chairman, if I understand the position of a member of Congress, every man upon this floor has a right to call upon the Commissioner of the General Land Office for information in regard to his department.

Mr. DOCKERY. Nobody has controverted that.

Mr. PETERS. And the mere fact that the Commissioner has sent letters here in reply to members of Congress is not to be criticised as improper action on his part or as a stepping outside of his official duty.

Mr. DOCKERY. I made no such intimation as that.

Mr. PETERS. Mr. Chairman, I want to call attention to one or two facts. The gentleman from Missouri, and some other gentlemen who are not so deeply interested in this land question as others, may look at this subject from a different standpoint from that occupied by a man who represents a Western land constituency. Again, Mr. Chairman, the mere fact that a gentleman may be a member of a particular committee does not make him, nor does it make that committee, or any member of it, the only proper means of communication between the Commissioner of the General Land Office and the Representatives of the people on this floor.

Mr. DOCKERY. The gentleman has certainly forgotten a part of the legislative history of two gentlemen here, one from Kansas and one from Missouri. In the last Congress I stood with him on this floor and demanded a sufficient force for the Land Office, and the gentleman who was then in charge of the bill stated that it carried all that the Land Office estimated for.

Mr. PETERS. I am glad to acknowledge the help of my friend from Missouri in the last Congress, and in the Forty-ninth, and, I believe, in the Forty-eighth also, because he represented a State adjoining the great Western land State from which I come and knew something about the wants of the Land Office. I accord to him all the honor and all the credit he deserves for his action in that matter. But when he comes in here now, in the light of this new "reform" that has dawned on the other side of the House since the control here has changed, then I want to call his attention to some things that have taken place in the past. Now I think I am as economical in the administration of the affairs of the Government and take as much interest in that matter as any one upon this floor, but gentlemen must bear in mind that the Government does not beg its money. That money is paid by the homesteader and the pre-emptor, just as the compensation of the employes in the Patent Office is paid by the inventors. There is not a dollar that is paid by the Government for the salary of the Commissioner of the General Land Office or for the salary of any clerk in that office, but what comes from the men who make their homes upon the prairies of the West.

Before a man can enter land in the Land Office he is required to deposit in advance a certain amount of money, which is turned into the Treasury of the United States, and when gentlemen talk about this question of economy I say the Government is withholding from the homesteader and the pre-emptor the patent which he has paid for in advance, and withholding it because there is not a sufficient force in the office to carry on the business properly. This is one of the cases where I am getting somewhat fatigued with the opposition which arises to every request for an increase of force. As has been stated by the gentleman from Montana, some of the departments of that office are three years behind, others two years, and others eighteen months. Now, I call the attention of the House to the fact that the man who moves upon a homestead, and settles upon it, and complies with the law and pays his money, not only for his entry, but for the patent, has the right to expect that at some period within his lifetime that patent will be issued by the Department. And what makes this thing more injurious and harassing to the homesteader and the pre-emptor is that under past Administrations it has been the policy after a man has made his final proof and obtained his final certificate to send out a detective to ascertain if possible whether the man has fully complied with the law and upon any mere pretext to hold up his entry for cancellation. This conduct on the part of the Government has placed the homesteader in such a position that until he actually receives his patent in his hand he has no assurance that he will ever obtain title to the property for which he has paid his money to the Government.

Mr. DOCKERY. Is it not true that all the public lands of the United States within the last twelve months have been withdrawn from sale, except, perhaps, lands in the State of Missouri?

Mr. PETERS. That is true.

Mr. DOCKERY. Is it not also true that the clerical force, whose duties have thus been reduced, can now be used in other departments of the Land Office?

Mr. PETERS. Oh, no. The Commissioner of the General Land Office states it as a fact that these entries, these declaratory statements and things of that sort, are still coming into the office in almost the same ratio as for the last four or five years. Besides, there are the commutations of homesteads; and, aside from that, there are men who are abandoning their claims and new men are filing declaratory statements upon these claims. So that, as a matter of fact, there is really but very little decrease in the original business of the Land Department. Now, I ask that this department be given such force as the Commissioner of the General Land Office may deem necessary in order to do justice to those claimants who are the patrons of the Land Office and of the Government.

Mr. CANNON. Mr. Chairman, I certainly desire, with due regard to economy (and when I say "economy" I mean economy for everybody, for the Government and for the citizen), to give sufficient force in this bill and all others for the transaction of the public business. But I do not want to go beyond the line of economical appropriations. The committee investigated this whole matter, and did so from the standpoint of sound business principles, taking into consideration all the facts. Now, what are the facts? Since 1887 there has been an increase of thirty-nine clerks in the General Land Office. In addition to that the Commissioner of the General Land Office submitted to this Congress an estimate, which was referred to the Committee on Appropriations, asking an increase of twenty-eight clerks in addition to the increase which had been given. Now, the Committee on Appropriations, after calling before them many of the officials of the General Land Office and examining them and taking into consideration the room that the department now has and everything in connection with the matter, were of opinion that fifteen additional clerks were all that under existing circumstances could be properly utilized; and we have reported a recommendation for an increase to that extent.

Gentlemen should remember that the estimate was only for an increase of twenty-eight. Now the Commissioner of the General Land Office, not in a communication addressed to the committee, but in an extra-official letter which he writes to gentlemen here, asks an increase of thirty-eight, ten more than the estimate submitted to Congress for orderly consideration and which was considered, and an amendment is offered here in pursuance of that letter.

I acknowledge that the work of that office is behind; but I want to say again that until Congress provides for the erection of an additional building or provides additional quarters for the clerical force and the records of the General Land Office a greater increase is, in my opinion and in the opinion substantially of the committee that has gone through this whole question, a merely useless increase, which will result in paying salaries to people to be employed in the present crowded quarters where they would be in each other's way and could not work effectively.

Mr. DOCKERY. I fully concur in that view.

Mr. CANNON. I think we had better let the recommendation of the Committee on Appropriations stand and make simply the increase of fifteen.

Mr. CARTER. Mr. Chairman, I will guaranty that every man in the district of the gentleman from Illinois [Mr. CANNON] has already received his patent for the land upon which he has settled—

Mr. CANNON. By no manner of means. My constituency and multiplied thousands of persons who have left our State during the last ten years, but who still consider themselves my constituents, are interested in this question; and so am I, just as much as the gentleman from Montana.

Mr. PICKLER. Then the gentleman ought to help them out.

Mr. CANNON. I have looked into this question.

Mr. PICKLER. No, you have not.

Mr. CANNON. Yes, I have.

Mr. CARTER. Mr. Chairman, any man who has traveled over the foot-hills of the Rocky Mountains and over the Western prairies and witnessed the hardship which this dereliction on the part of the Government imposes would say let additional room be rented at once—

Mr. DORSEY. That is right.

Mr. CARTER. To the end that these long-suffering settlers may receive justice at the hands of the Government. They ask nothing more than the law justly executed will give, and to that they are entitled.

Mr. PICKLER. And they have paid for it, too.

Mr. CARTER. They have paid for the land, they have complied with the law by long years of settlement, in many cases under adverse circumstances; yet it is suggested that because, perchance, men can not work closely together in the Departments these settlers should be prevented from securing evidence of their compliance with the law of the land.

Let me suggest, in reply to the member of the committee who made



the statement relating to the continued decrease in the volume of business, that it is true that between September 23, 1889, and April 19, 1890, the number of cases pending in the General Land Office were decreased from the sum of 292,000 to about 229,000, but the volume of new business is not decreasing. The present session of Congress has provided that there shall be added to the existing one hundred and seven land offices twelve additional land districts. These additional land districts will undoubtedly create a large amount of additional work. They will be an additional weight upon the existing force in the office, which is already too small.

Now, we simply ask that the accumulated business be disposed of by a suitable force of men; and it is not contended that the disposition of these cases will cost a penny more to the Government now than if the settlement is put off twelve months hence. And it is no injustice, I claim, to ask that the Government of the United States shall comply with its contract made with the settlers when they entered upon public lands by delivering to them their patents, and when the patents had been justly earned under the law. I know of cases in my own State where men have been developing mining claims for twenty long years. They find that sales can rarely be made to advantage at best; but in many instances sales have been absolutely prevented and the development of the country retarded for the reason that capitalists will not invest their money in property unless the best title the Government can give is obtained. Now, all we ask is that that title to which these people are fairly entitled shall be given to them.

[Here the hammer fell.]

Mr. PICKLER. I move to strike out the last word. I desire to say that I agree with the gentleman from Montana and the gentleman from Kansas in regard to this question. I suppose, sir, that it is the business of the Committee on Appropriations, and they are to be commended for it, that they shall keep the appropriations within reasonable bounds, and as far as possible cut off all unnecessary expenditures. But I appeal to gentlemen on that committee to give more attention to this matter, for they are doing great injustice in keeping the number of clerks in this office down and preventing them from transacting the necessary work of the office, doing thereby an injustice to the people, who are not able to stand it.

I receive more letters from my constituents, aside from pension claims, upon this question of deferred patents and suspended land claims than all my other business combined. Men in my country, women in my State, have settled upon these lands and made final proofs, and for one, two, three, four, five, and often as long as seven years their proofs have been withheld, the entries suspended in the General Land Office, and they are unable to procure their titles. The heart becomes sick and hopeless and they become disgusted because they can not get title. They can not do anything in the premises themselves and they become heart-sick, weary, and discouraged, and leave the country finally.

I go to the General Land Office here and I appeal to the Commissioner himself, as do other gentlemen representing public-land States, and we are met there by the eternal proposition that we have not the force here to do the work. The Commissioner says, "If you gentlemen in Congress will provide the help that is necessary we will have the claims examined and adjusted, and your people shall have their patents." That we are met with at all times and at all seasons. I appeal, gentlemen, to you in behalf of these men who should have title to their lands. It is no expense to the Government. As has been well said by the gentleman from Kansas, the man who files upon a homestead deposits \$14 with the Government; the man who makes a tree claim deposits his \$14; the man who makes a pre-emption deposits \$2, and this is amply sufficient to pay for the clerical force necessary to do all the work in regard to the titles and to do the business in a business-like way. It is unjust to take these people's money and not give them their titles. It is not taking money from the Treasury, but simply taking the money paid by the settlers themselves, money which should be applied to the proper discharge of the business and the issuance of the patents. We are deeply interested in this matter, and our people are clamorous that some assistance shall be rendered by which they may get their patents.

Mr. Chairman, I am in favor of the amendment, and certainly if the objection is made that there is not room in the office as at present organized, certainly a few additional rooms can be rented outside, if that is all that stands in the way. It seems to me, with all due deference to the gentlemen of the committee, that it is a very frivolous excuse to say that the business of the Government must remain undone for two or three years because we have not the room to do it in.

In addition to the suggestion of the gentleman from Montana as to the land offices in my own State, surveys are being made of the great Sioux reservation, containing about 11,000,000 acres, which is to be added to the public domain, which will largely increase the work of the office, as will also other large reservations now being thrown open, and as a result we will get further and further behind with the business if the relief asked here is not accorded. I hope the amendment will be adopted.

Mr. BUTTERWORTH. Let us have a vote.

The question was taken on the amendment of Mr. CARTER, and on a division there were—ayes 35, noes 45.

So the amendment was rejected.

The Clerk read as follows:

Indian Office: For the Commissioner of Indian Affairs, \$4,000; Assistant Commissioner, who shall also perform the duties of chief clerk, \$3,000; financial clerk, \$2,000; chief of division, \$2,000; principal book-keeper, \$1,800; five clerks of class 4, one of whom shall have charge of the educational division; eight clerks of class 3; one draughtsman, \$1,600; one stenographer, \$1,600; ten clerks of class 2; eighteen clerks of class 1; nine clerks, at \$1,000 each; twelve copyists; one messenger; two assistant messengers; one laborer; one female laborer, \$650; one messenger boy, \$360; and two charwomen; in all, \$97,640.

Mr. DORSEY. I desire to offer the following amendment to that paragraph.

The Clerk read as follows:

Strike out, in lines 1 and 2, page 80, "chief of division, \$2,000," and insert: "Chief of accounts division, chief of educational division, and chief of land division, \$2,000 each."

Also, strike out, in line 3, "five clerks of class 4" and insert "three clerks of class 4."

Also, strike out, in lines 3 and 4, "one of whom shall have charge of the educational division."

Mr. BUTTERWORTH. On that I reserve the point of order until I hear what the gentleman has to say.

Mr. DORSEY. By this amendment it is proposed to strike out "five clerks of class 4" and insert "three." That reduces the clerks of class 4 to three clerks. As it is at present, two of the clerks of class 4 are assigned as chiefs of division, one as chief of the division of accounts and the other as chief of the educational division. In this amendment we establish these two divisions and make these clerks chiefs of division, giving them \$200 per annum more than they now receive in their class. This will be a benefit to the service.

Mr. BUTTERWORTH. Now, before my friend proceeds I want to make the point of order. This proposition is to make two chiefs of division. It reduces the number of fourth-class clerks two and adds two chiefs of division. That is obnoxious to the point of order raised.

Mr. DOCKERY. I would like to ask the gentleman from Nebraska to allow the amendment to be reported again, as we were unable to hear it here.

The amendment was again reported.

Mr. DOCKERY. Mr. Chairman, I understand that the gentleman from Ohio made the point of order against it. Before that point is decided I would like the gentleman from Nebraska to state his reason for this increase of force.

Mr. DORSEY. I will say to my friend from Missouri that two clerks of class 4 are detailed or assigned as chiefs, one as chief of the division of accounts and the other as chief of the division of education. They have each a large number of men under them. They are occupying positions that entitle them to be made chiefs of division; and this is to aid in the reorganization of the office and make it so that they can do more effective work in the future. I do not think my friend from Ohio should make the point of order against this, and if he does I hope that the Chair will promptly overrule the point of order and let us vote on the amendment. [Cries of "Rule!"]

The CHAIRMAN (Mr. GROSVENOR in the chair). So far as the Chair is advised, the question presented in this amendment is exactly the same as that which was decided a moment ago by my distinguished predecessor in favor of the point of order, and following that ruling the Chair will sustain the point of order.

The Clerk read as follows:

United States Patent Office: For the Commissioner of the Patent Office, \$5,000; Assistant Commissioner, who shall perform such duties pertaining to the office of Commissioner as may be assigned to him by the Commissioner, \$3,000; chief clerk, \$2,250; one law clerk, at \$2,000; three examiners-in-chief, at \$3,000 each; examiner of interferences, \$2,500; thirty principal examiners, \$2,500 each; thirty-two first assistant examiners, at \$1,800 each; thirty-six second assistant examiners, at \$1,600 each; forty-one third assistant examiners, at \$1,400 each; fifty-fourth assistant examiners, at \$1,200 each; financial clerk, \$2,000, who shall give bonds in such amount as the Secretary of the Interior may determine; librarian, \$2,000; three chiefs of division, at \$2,000 each; three assistant chiefs of division, at \$1,800 each; four clerks of class 4, one of whom shall act as application clerk; one machinist, \$1,600; five clerks of class 3, one of whom shall be translator of languages; twelve clerks of class 2; fifty clerks of class 1; one skilled laborer, \$1,200; three skilled draughtsmen, \$1,200 each; four draughtsmen, at \$1,000 each; one messenger and property clerk, \$1,000; twenty-five permanent clerks, at \$1,000 each; five model attendants, at \$1,000 each; ten model attendants, at \$800 each; sixty copyists, five of whom may be copyists of drawings; seventy-six copyists, at \$720 each; three messengers; twenty assistant messengers; forty-five laborers, at \$600 each; forty-five laborers, at \$480 each; fifteen messenger boys, at \$360 each; in all, \$667,790.

Mr. DOCKERY. I offer the following amendment.

The Clerk read as follows:

On page 83 strike out the word "five," in line 10, and insert in lieu thereof the word "four."

Mr. DOCKERY. Mr. Chairman, in the Forty-fourth Congress the salaries that had theretofore been allowed the principal examiners were reduced from \$2,500 to \$2,400. That Congress, as gentlemen know, reduced the salary account of the Government about \$30,000,000 annually. The salaries of these examiners have remained at \$2,400 from the Forty-fourth Congress until this moment, and it is now proposed to restore the old rate of \$2,500. I submit the question for the consideration of the other side of the House, knowing full well that their votes are to determine the question. If they desire to raise the salaries \$3,000 annually, of course the responsibility is with them.

Mr. BUTTERWORTH. Mr. Chairman, the officers to whom reference is made by my honored colleague on the committee are the



special examiners, the examiners-in-chief, of the Patent Office. They are not paid out of taxes contributed by the people. They are agents who are paid out of the fees that are received at the Patent Office, and I defy my friend to find an individual who does business with that office who desired this arbitrary reduction. What they do want there are men of ability, men of integrity, who are competent to dispatch the business brought before them. Now, my friend knows that they stand there, not as clerks, but in a judicial capacity. They pass upon questions involving, not thousands and tens of thousands, but millions of dollars. They stand between the great body of the people and those exactions which may be found in patents improperly granted.

Now, the fact is that the compensation is inadequate, and no human being having business to-day with that bureau has asked or petitioned or solicited a reduction of the salaries of these judicial officers, for they are judicial officers; and the trouble has been in that department that it is next to impossible to keep there good, competent men because of the reduction. The reduction is inconsiderable, but it is unjust while it is inconsiderable. I happen to know, for I was at the head of that bureau for some time, that this Government would do well to increase the salary 50 per cent. instead of reducing it 1 per cent., because they not only require a very high order of ability, but the highest order of integrity.

Now, with respect to this coming out of the public funds, which was stated by the gentleman awhile ago, what the people of this country are demanding is a prompt and efficient and honest dispatch of the business now in that bureau, and the salary is now smaller than was deemed to be adequate fifty years ago. This reduction was arbitrary, running all along the line, and I do not think it was justified; and hence in committee I urged that these judicial officers be paid \$2,500, a salary which was fixed fifty years ago, because they were required to be technical experts, learned in the law and equal to the emergency, and it has been a change in the wrong direction to reduce their salaries.

Mr. DOCKERY. I wish to ask the gentleman from Ohio [Mr. BUTTERWORTH] if it is not true that the force is now characterized by all the ability and integrity that he desires.

Mr. BUTTERWORTH. It is so in the main, but each month or two one drops out and they have to fill his place, and he drops out because of the inadequacy of the compensation.

Mr. DOCKERY. Because of the lack of the \$100 increase allowed in the bill?

Mr. BUTTERWORTH. Well, this is only a hundred dollars, but a dollar is a good deal when a man needs it. [Laughter.]

Mr. DOCKERY. Has there been any trouble in finding applicants for appointment in that bureau?

Mr. BUTTERWORTH. Yes, sir. There have been resignations right along almost monthly. There will be some this month, and my friend's constituents are vitally interested in keeping the best ability and the highest integrity in that office.

Mr. DOCKERY. Are there not about ten applicants for the places for every clerk that resigns?

Mr. BUTTERWORTH. Yes, sir; and there are hundreds of applicants for seats upon this floor, where no one resigns. [Laughter.] Yet I would not reduce the salary of my friend from Missouri. His constituents would not be able to fill his place for less than \$10,000. [Laughter.]

Mr. DOCKERY. The analogy does not hold good.

Mr. BRECKINRIDGE, of Kentucky. The gentleman [Mr. DOCKERY] seems willing to keep the job at the present salary.

Mr. BUTTERWORTH. Evidently.

Mr. DOCKERY. If my salary were reduced and I thereupon proposed to resign, then the analogy would obtain. But there might be a reduction of \$100 in my salary and I am quite sure that I would still desire to hold a place on this floor. [Laughter.]

Mr. BUTTERWORTH. The gentleman's point was that because men were applying for positions in the Patent Office therefore we might reduce the salaries and might continue the reduction until the applications ceased. Now, in reply to that, it is in point to say that the same condition pertains to seats upon this floor. The applicants for them in every district in this country are provokingly numerous [laughter], and although we might increase or diminish our salaries here the applications would still continue. But that does not determine the question as to whether our compensation is adequate or more than adequate or not. I recollect that my friend from Indiana [Mr. HOLMAN] once proposed to reduce the salary of Congressmen down to three or four thousand dollars a year, he and I working together in the interest of the people. [Laughter.] It was then said by gentlemen that the supply would not fail even if we reduced the salary, and it would not; yet nobody thought here—or at least I infer from the vote that that was not the conclusion [laughter]—that Representatives upon this floor were paid too highly. So that whether the number of applications grows or diminishes does not always determine the question whether the compensation is adequate or not.

Mr. DOCKERY. Certainly not; but these salaries of \$2,400 a year have, if my knowledge of the Patent Office goes for anything, been ample to secure a remarkably efficient body of men—

Mr. BUTTERWORTH. I have already called my friend's attention to the fact that the tendency to reduction was what gave rise, in the main, to the largely increased number of resignations; in fact, these officials have been promised an increase instead of a reduction.

Mr. DOCKERY. But there is no trouble, there or elsewhere, to find numerous applicants for every vacancy. Now, when it comes to the question of compensation, I say to my friend that there are a number of salaries in the Departments in Washington which, in my judgment, are too low, and there are also quite a number that are too high; and if we are to enter upon the work of equalization now, let us not begin and stop at the Patent Office. I recall the case of an officer in one of the Departments who disburses annually six millions of dollars, yet receives a compensation of only \$2,250.

Mr. BUTTERWORTH. That is enough for that. [Laughter.]

Mr. DOCKERY. Not at all; so that this question extends to other Departments and other bureaus than the Patent Office. What I object to—and I desire my friend from Ohio to understand it—is that at this time, when the business interests of the country are certainly not prosperous, when agriculture is especially burdened and prostrate, as all know and concede, and everybody desires, I suppose, to extend relief to that class of our citizens, who constitute one-half of all the people in the United States—what I object to, I say, is that at such a time a proposition should be made for the increase of the salaries in the clerical Departments at Washington.

Mr. BUTTERWORTH. But my friend is aware that the agricultural community, suffering as it does now, or whether it is suffering or prosperous, does not contribute to pay the salaries of these officers. It is the persons who do business with the bureau who pay the money, and it is within my personal knowledge that they desire and require the best ability that we can give them, because they do not want claims allowed that will not stand the test of judicial criticism.

Mr. DOCKERY. But it is the money of the people of the United States. It would go into the Treasury if we did not appropriate it in payment of these salaries.

Mr. BUTTERWORTH. Yes, but it is plain robbery to take the money of business for the transaction of certain business and then to furnish inadequate or incompetent force to do that business.

Mr. DOCKERY. I would inquire of the gentleman whether it would not be a good idea to reduce the fees that the applicants have to pay.

Mr. BUTTERWORTH. No, it would not; and they do not demand it. They demand more room. We have crowded them into cellars down there—

Mr. DOCKERY. I apprehend that that class of our citizens are not heard on this floor.

Mr. BUTTERWORTH. Oh, yes, they are heard on this floor. I am speaking for them myself. [Laughter.]

Mr. CHADLE. I trust that the motion of the gentleman from Missouri will prevail.

The CHAIRMAN. Debate on the pending proposition is exhausted.

Mr. CHADLE. I move to amend by striking out the last word. Sir, I think this is not a proper time to increase the salaries of officials of the Government. And in my limited experience here I have observed this fact: that the increase asked for applies always to the higher priced clerks or employés of the Government.

Mr. BUTTERWORTH. I call my friend's attention to the fact that this is only the salary allowed by law.

Mr. CHADLE. I admit that since 1848, for forty-two years, it has been the law that the salary of these officers should be \$2,500; yet it is also true that during the greater portion of this period the salary actually paid has been less than \$2,400 a year. While it may be true that the Patent Office is more than self-sustaining, that it pays into the Treasury more than the expenses of carrying on the office, yet it does not necessarily follow that there is any reason for this increase of salary. My distinguished friend from Ohio [Mr. BUTTERWORTH], who is an expert in this matter, knows that the examinations made by these officers is not the highest evidence as to the validity of a patent. This is the view held by the heads of that Department for many years. I think it inimical to the best interests of the country that there should be any increase in salaries, and therefore I trust that the amount paid these examiners will remain the same as it has been during the last fiscal year, that is, \$2,400.

Mr. WASHINGTON. Mr. Chairman, the gentleman from Ohio [Mr. BUTTERWORTH], in urging that the pay of these examiners be increased, has stated that they are performing work which is judicial. He has had far greater experience in the Patent Office than I, for I have never been Commissioner of Patents; but I insist that the work of these principal examiners is not in any sense judicial; it is clerical. They are mechanical experts only, whose duty it is to thoroughly examine all the plans, specifications, and drawings which accompany every application for a patent and to decide whether the proposed invention is novel and useful and whether it is covered by any other patent. If the conclusion arrived at is favorable, the application is granted and the patent issued. But the patent when issued is of no validity or force, is worth no more than the paper on which it is printed, until it has been adjudicated by a court. It is in the courts that the contest comes on all patents which are worth anything.



The decision of a principal examiner amounts to nothing more than an authority to go into court and test the validity of the patent and the priority of the invention. All the great and valuable patents have been tested by this sort of litigation before they have possessed any real market value.

There is no necessity for increasing the pay of these examiners. I am told that the patent attorneys in this city employ clerks at from \$10 to \$15 per week, who go to the Patent Office and make the preliminary examination which is required on filing every application for a patent and which requires the same amount of skill, knowledge, and judgment as that exercised by these principal examiners. The patent attorney can hire for \$40 to \$60 a month the same sort of talent that we are asked here to pay for at the rate of \$2,500 a year. Ah! but these examiners, they say, will resign unless their pay is increased! Yes, they always resign when they have a favorable opportunity to go into the practice of patent law in this city. The very training and experience which they get in the office fits them for this work, so that they get their education at the expense of the people. Raising their salaries will not insure their remaining in office, because they will resign whenever they have reached that point of efficiency which will enable them to earn more outside, and the Government can not afford to pay more for clerks than the same man can make as a successful patent attorney.

Besides, it is a positive fact that there are numbers of applicants for these positions, hundreds more than can be provided with places, and many of these applicants would be just as efficient as those now in office. I do not care to reflect upon the efficiency of the present service; but I am told that among these examiners and assistant examiners of patents there are many "hacks"—broken-down politicians, preachers, and others—who, as has been said on this floor in discussions heretofore, are held in office by virtue of their having friends in the church and in the state.

Now, it is unnecessary to tax the people of this country further to support this institution. They have lived on these salaries for the past six or eight years, and I think in the present depression prevailing all over the country, in the scarcity of money to move the crops or to do business, in the absence of a tariff bill or legislation upon the silver question or any of the great and important questions upon which the people are interested, that these men can afford to exist a while longer on \$2,400 a year.

This system was established in 1836. Then the pay of the examiners was fixed at \$1,500. It was gradually increased, as have been all of the salaries in the clerical departments of the Government, until the compensation of these men was fixed by law at \$2,500 a year. But when the wave of economy swept over this country a few years ago and the Democratic party came into power, the salary was reduced, and I think it ought to stand at that amount at which it was fixed then, fully twelve years ago.

[Here the hammer fell.]

Mr. BUCHANAN, of New Jersey. Mr. Chairman, I move to strike out the first word.

The CHAIRMAN. There is an amendment pending to which the gentleman can address his remarks.

Mr. BUCHANAN, of New Jersey. It is somewhat amusing, Mr. Chairman, to hear questions discussed by gentlemen with such an absolute want of knowledge of facts as has been exhibited by some gentlemen here in this discussion.

I have had business with the Patent Office, and I repudiate *in toto* the characterization of these examiners given to them by the gentleman who has just taken his seat. They are experts; they are strong men. At least, they were such as I knew them. They should receive the full amount of the salary which the law gives to them, and the question before the House now is not whether we shall raise the salaries or not, but whether we shall or shall not obey the law and give to them in this appropriation bill the salary which the statutes of the United States entitle them to receive. Shall we be honest with them or shall we not? That is the question, and the only question, for us to consider. If the statute gives too much, reduce it by another general statute, not by the roundabout method of failing to appropriate.

I want to ask, Mr. Chairman, any opponent of this proposition what there is to prevent these gentlemen from going into the Court of Claims, suing for and recovering the difference between the amount we appropriate, being less than what the statute provides, and the amount set out in the statute itself. It has been done in other cases and it can in this.

One other word. These salaries do not come out of the pockets of the tax-payer of this country, and you can not juggle the question so as to make it appear that it does. This office is supported by the great industrial interests of the country, and they are perfectly willing to pay whatever is necessary to get the very best service in that office that can be obtained. The best is to them the cheapest in the end. There is no demand from these interests that these salaries should be appropriated for at a less amount than that fixed by the statute. These interests have given to the Government in fees more than enough to pay these salaries, ay, and, over and above that, enough to erect a decent building in which their business can be car-

ried on. It is a question which affects them and affects them vitally. They feel they have some right to the benefit of the best service their money can secure. The surplus they have already paid reaches a round \$3,000,000. The Government does not, in fact, pay one dollar of the Patent Office expenses.

Mr. Chairman, these men are judicial officers. I speak of that of which I have knowledge. They pass upon conflicting applications in the office and upon applications which conflict with patents already granted in this and other countries, and they do exercise judicial functions. Ay, sir, they exercise them in cases where millions of dollars of interests are sometimes involved, and they should be men of strict integrity as well as men thoroughly versed in their profession.

One gentleman says that we are training patent attorneys. And so we are at the present policy. That is what we complain of. What we want to do is to pursue such a policy as that after training men and fitting them for the places they occupy in the office they will have some reason to remain and give to the Government and to that portion of the people who require their services, and who, in fact, pay for their services, the benefit of the training and information they have acquired in that profession.

[Here the hammer fell.]

Mr. McMILLIN. Mr. Chairman, since the gentleman from New Jersey who has just taken his seat has exhibited so much zeal in behalf of the increase of these salaries rather than to favor the recommendation of my friend from Missouri, which looks to the reduction of public expenditures, I wish to call his attention to another fact, which did not seem to arouse his indignation or zeal to any such degree as this proposed reduction does.

The original law fixed the salary of the Commissioner of Patents at \$4,500 a year, and yet for years there has been an increase of that salary to \$5,000. That was carried in the appropriation bill, and nowhere else, was provided for nowhere else, nor was it contemplated in any other place. But this increase of salary did not seem to arouse the ire of my friend from New Jersey.

Now, Mr. Chairman, in the Forty-fourth Congress there was a reduction of the salaries carried by this bill, if I have the correct information, a reduction of two hundred and twenty-one salaries, and that reduction has been continued up to this date. The saving effected to the Government of the United States by that change was \$67,102 a year. I wish to know whether these gentlemen who are so anxious to increase salaries here and get rid of the surplus in the Treasury that is so rapidly disappearing, so anxious to get rid of a surplus that will not be there long, whether they are willing to go back and raise all of these salaries, two hundred and twenty-one in number, to what they were before the reduction was made in the Forty-fourth Congress.

The gentleman in charge of this bill has spoken of it, if I remember his language correctly, as robbery to take this \$100 off the \$2,500 salary of these people, reducing it to \$2,400. That same robbery was going on while he was on the Committee on Appropriations—certainly during a part of the time he was on that committee; it has been going on since the Forty-fourth Congress.

Mr. HOLMAN. That is correct; for twelve years.

Mr. McMILLIN. For twelve long years; and now in the year of grace 1890 it is found out for the first time that economy in public expenditure is robbery.

He admits himself that there are ten applicants where there is one vacancy.

Now, if this is to be done let it be understood how it is going to be done. The gentleman has a majority at his back, and he can go on and raise these salaries and he can raise any others. He can create new offices and can give additional salaries. He can pour out the hard-earned money of the people of the United States that is now in the Treasury; but let it be understood that the work is going on and let it be understood who is carrying it on.

Now, it is said this money is received by fees which are collected from those who are prosecuting patent cases or have filed applications for patents in that department, and he gave that as a reason why it would not cost the Government anything to grant this increase. He said that they received fees in excess of the expenses of that department on salaries. Now, if my memory is correct, a large fund has accumulated annually from the fees, and that fund goes to the Treasury. Under the law it goes there. It is no less appropriated to-day as part of the people's money because it originally came from applicants for patents instead of coming from direct taxation. It comes as fees from those who get a *quid pro quo* in the way of patents that run for years and give them exclusive privileges. I am not complaining of the patent system; but what I am insisting upon is the necessity of an economical administration of the Government. I would not hinder the Government service. The salary that is paid to these clerks is greater than is given to many of the governors in the Northern States. It is greater than the salary which is given to the governor of Michigan and greater than the salaries of the governors elsewhere in the Northern States.

[Cries of "Vote!"]

Mr. ALLEN, of Michigan. We had cheap governors for a great many years, but finally we raised the salary from one thousand to four thousand; and we do not believe in cheap salaries.



Mr. McMILLIN. And that is for the governor of one of the great States.

Mr. KERR, of Iowa. Mr. Speaker, I protest against the attempt on the part of gentlemen on this side of the House to increase salaries in any direction. There has been a promise on our part to give an economical administration of the Government, and it is the duty of those having charge of legislation to see that we obey our pledges. I protest against the statement of the gentleman from New Jersey.

Mr. BUCHANAN, of New Jersey. In what respect?

Mr. KERR, of Iowa. With reference to the question of granting patents and the high salary that it is necessary to give in order to get men of talent.

Mr. BUCHANAN, of New Jersey. I will except the gentleman if he desires.

Mr. KERR, of Iowa. There is no truth in that proposition. The ablest man who ever sat in the supreme court of the State of Illinois served there for years (and I do not think that it will be questioned by any men on this floor that he was the ablest judge who ever sat on that bench) at a salary of \$1,000 a year.

Mr. CANNON. Well, he died there receiving a salary of \$6,000.

Mr. KERR, of Iowa. That is very true.

Mr. PAYSON. And half the time that he occupied the office he was worth a million dollars.

Mr. KERR, of Iowa. That makes no difference. It seems to cut out the argument made that men of talent could not be obtained for a low salary when so able a judge as Judge Caton received such a low salary as he did in Illinois for such a number of years.

Now, in regard to this bill, the gentleman who has control of this appropriation bill, and who was the chief of the Patent Office, and as the gentleman from New Jersey says in regard to himself, is individually intimate in his associations with that office, and is in the habit of going there, and in the course of his business relations is brought in contact with these men. I can understand that these social influences induce him to favor the granting of an increase of the salaries there, but I say to the gentlemen that they have no right to allow their social relations in these matters to cause them to violate the pledges of their party in favor of an economical administration of the Government. I have said, and I repeat it now, that nothing had more to do with the retirement of a large number of Republicans from the Congress of the United States many years ago than the general action on the part of this House in increasing salaries all along the line, and I tell the gentlemen now that if that course is pursued large numbers of the Republican party in the West will enter their protest by voting against the organization.

Mr. HILL. Will the gentleman allow me a question?

Mr. KERR, of Iowa. Certainly.

Mr. HILL. Have you ever made any investigation to ascertain whether or not the salaries were fixed by law?

Mr. KERR, of Iowa. The appropriation bill fixes that law.

Mr. BUCHANAN, of New Jersey. No, it does not.

Mr. KERR, of Iowa. It is declared in the first section of the bill that this amount of money shall be received "in full compensation for the service;" and it is in the provision of this appropriation bill just as it has been in every appropriation bill since the Forty-fourth Congress. Every one of these men that have been appointed is willing to take the money that is voted to the office, and yet this is going beyond the express provision of law by which they are appointed.

Mr. HILL. The gentleman has not yet answered my question, which was whether or not their salaries were fixed by law or were they fixed in the appropriation bill?

Mr. SPINOLA. What does the platform say about it?

Mr. KERR, of Iowa. The law under which these men are appointed and under which they receive their standing, under which they enter the service, is a contract between them and the Government. When an appropriation bill has been passed year after year saying that certain officers shall receive \$2,400 a year, and the amount received shall be in full compensation for such service, he receives that amount with the knowledge that the appropriation bill is as much a law as the provisions of a statute upon the statute-book, which simply make a designation of the office at the organization of the department.

Mr. CANNON. Mr. Chairman, I hope we will get to a vote upon this amendment. We want to finish this appropriation bill to-night.

Mr. BLOUNT. I move to strike out the last word.

These salaries, as I understand, have existed from the Forty-fourth Congress until now at the rate of \$100 less than proposed at this time to make them. It is presumed that during all that period Congress has thought this allowance sufficient. I have heard no reasons brought out in this discussion why there is any occasion for an increase. It has been said that the duties of these officials are very high and responsible, but they are not more so than they have been. It is said that it is difficult to retain the clerical force doing this work. What is the reason of that? Is it that \$100 more a year would or might retain them, and that, by reason of not getting the \$100 extra, they resign? Would an increase of \$500 per annum prevent the resignation of clerks of this class?

Mr. Chairman, the real reasons lie not in the amount of the compen-

sation. The principal advantages in these places are not the salaries. The great advantage is the education which men get there in patent law and in the prosecution of the patent business. That is what entices young men into these places. They go in there and remain until they are qualified to conduct the business as attorneys, and then they go out and engage in the patent business, and many of them are making large incomes by means of the special education which they obtained while in the Patent Office. That is the reason they go out, and they will continue to go out, no matter at what figures you fix the salaries. And, Mr. Chairman, I am glad to see a disposition on the part of any class of clerks to go out in that way. I do not mind seeing a young man go into a Department for a time when he is starting in life, but I think his ambition must be poor when he settles down to the idea of living on his salary permanently.

It is said, Mr. Chairman, that this money does not belong to the Government. To whom does it belong? to the inventors who pay the fees and who have been paying them from the beginning of the Government? Are they the parties who are interested in this fund? Nay, sir, these fees are collected in that way, and they are made to constitute a fund which is appropriated for the purposes of the Patent Office; but we are just as much bound to use that money, whether for the compensation of the clerks or for any other purpose, scrupulously, honestly, and in a business way, as we are bound to use in that way money collected from internal-revenue taxes or from any other source of taxation. So, Mr. Chairman, we must not be misled by these specious arguments. We have had good men in the past in that office and we shall continue to have them in the future.

The danger, sir, not only in the Patent Office, but in every branch of the service of the Government, is from organized efforts for increase of salaries. That evil exists notably in the postal service. There is scarcely a class of employes that is not organized and banded for an increase of compensation. There will never a time come when Congress will not be urged, for specious reasons, to make increases of salaries.

Mr. CANNON. I would be very glad if we could get a vote, Mr. Chairman. I think every gentleman must have made up his mind on this proposition, and we ought to complete this bill to-day.

Mr. DOCKERY. I am entirely in favor of the suggestion of the gentleman from Illinois to expedite this bill, but on this question of increasing salaries there are several gentlemen who desire to be heard, and not for purposes of delay.

Mr. CANNON. I think we ought to understand the proposition by this time, and we shall not complete this bill to-day unless we go ahead.

Mr. TILLMAN. Mr. Chairman, not only should this \$100 additional salary proposed by this bill be stricken out, but, if the paragraph were properly amended, "twenty-five hundred" would be stricken out and "two thousand" would be inserted; so as to make the pay of the chiefs of the examiners' division correspond with that of the chiefs of other divisions in the Patent Office.

Mr. CANNON. The motion is in order.

Mr. TILLMAN. Yes, but I have not time to argue it now. I speak, sir, advisedly and after thorough investigation. Gentlemen talk of the high judicial functions exercised by the principal examiners in the Patent Office. Humph! High judicial functions, indeed! Twenty-five thousand patents were granted last year, and over five hundred thousand, or in that neighborhood, have been granted since the office was opened.

The truth is, as remarked by the gentleman from Tennessee [Mr. WASHINGTON], no patent issued in this country is worth more than the paper it is written on until its validity has been established in the courts. Nearly every application for a patent is passed upon favorably if the poor, unfortunate, self-deluded applicant is able to pay the fee. Why, the gentleman who has special charge of this bill [Mr. BUTTERWORTH], in a report recommending another bill at the present session appropriating \$3,000,000 to erect a new Patent Office, said himself that nine-tenths of the patents granted are not worth the fees they cost the patentees.

Ah, sir, he might have gone further and said nineteen-twentieths were not worth the fees. The gentleman also characterizes the Patent Office in the report as being in the estimation of some people "a clearing-house for cranks." Sir, it is a clearing-house for cranks, and after a great deal of business has been transacted there the cranks go away with worthless patents, while the attorneys and the examiners have got the money. All the financial transactions there have been to put fees into the pockets of the attorneys and to produce a fund out of which these principal examiners and other employes are paid simply to grant every patent, as a rule, that is asked for. [Laughter.]

No principal examiner dare refuse to grant many patents, no matter how frivolous they are. The patent attorneys would soon hound him out of office for curtailing their fees, as was done in the case of Examiner G. C. Shaeffer, under a former Administration. Mr. McCullough, in his Men and Measures of Fifty Years, tells us that Shaeffer was a very learned, honest, and independent man, who would not issue patents that lacked "novelty and utility," and, as a consequence, he was, against his wishes, transferred from the examiners' division to the place of librarian.



The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON. Now, Mr. Chairman, I ask that debate be concluded, so we may have a vote.

Mr. WILLIAMS, of Illinois. I desire a little time.

Mr. CANNON. How much time does my colleague desire?

Mr. WILLIAMS, of Illinois. Five minutes.

Mr. CANNON. Well, I ask that debate be closed at the end of five minutes.

Mr. HOLMAN. I hope the House will extend five minutes additional time to the gentleman from South Carolina [Mr. TILLMAN].

Mr. CANNON. The House understands all about this proposition.

Mr. TILLMAN. The House does not understand all about this proposition. [Laughter.] It is very seldom that I ask the House to listen to me, and I ask unanimous consent to be heard now for five minutes.

Mr. CANNON. I ask unanimous consent that debate be closed in twelve minutes, ten minutes to be used on this side and two on that side of the House.

Mr. SIMONDS. I object.

Mr. CANNON. Then I move that debate be closed in twelve minutes.

A MEMBER. Make it twenty minutes.

Mr. CANNON. I move that debate be closed in fifteen minutes; ten minutes for that side of the House, and five for this side.

There was no objection, and it was so ordered.

Mr. TILLMAN. Mr. Chairman, I have studied this question exhaustively, and I would have discussed it elaborately the other day when the general debate was going on upon the bill but for the fact that I had a very bad cold and a severe headache, and I am sorry now that I can not go into principles and details of patent law generally and the administration of our Patent Office particularly.

The original salary of the principal examiner of the Patent Office was \$1,500 and that of his assistant was \$1,250; but in 1848 the salary of the principal examiner was raised to \$2,500 because it was made his special duty to hear applications for extensions of patents. But when the right of extending patents was taken away from every authority except Congress the reason for this increase of salary of the principal examiner disappeared and the increase itself ought to have disappeared also.

Sir, the examiners in the Patent Office pass almost every application. The principal examiner in each department is to-day the sole authority to pass upon a patent; and this is the reason patent attorneys are so anxious to conciliate these examiners. Unless a principal examiner rejects an application for a patent an appeal can not be taken even to the three "examiners-in-chief." Therefore the examiner passes the patent. And I wish I had time to read to the House half a dozen patents which have passed there that would excite contempt and derision—and not only half a dozen—I could produce hundreds of thousands. They have granted a frivolous patent for extracting the tapeworm from a man. [Laughter.]

A MEMBER. That must be a very good patent.

Mr. TILLMAN. Yes, if the thing were practical. They have granted a patent for a funny contrivance by which a man who has been buried while in a trance may, by means of a cord attached to his thumb, ring a bell when he revives. It does not specify what provision is made for outsiders being present to hear the bell. They have granted a patent purporting to enable the patentee to monopolize the business of scalding hogs; and the specifications of the patent show that it is simply the way in which hogs have been scalded ever since the time of Moses. [Laughter.] They have granted a patent to a man for packing bottles in corn-husk shucks—a natural patent which you may say was created by the Almighty. This method of keeping bottles from breaking at times was used, I suppose, soon after America was discovered.

So, sir, the chief business of these principal examiners is simply to pass every patent. And so when every deluded, self-deceived dreamer, who imagines that he has invented or discovered something which will benefit the world and make himself rich, applies there with some petty device his attorney tells him, "Just pay the fee and you can get it through;" and if the fee be paid the patent does go through. It is only where infringements or interferences arise or where a really valuable new invention is presented which some one wishes to steal, that there is any trouble. And when they find a cranky inventor who has money and who is self-deceived with the idea that he has a great invention, I am afraid some of the attorneys and some of the examiners collude to delay the patent and rob the crank by exactions.

I wish I was not hurried for time and could have the opportunity to analyze our abominable system of granting patents by examination instead of by mere registration, as is done in most foreign countries.

The worthlessness, in fact the abuses, the delusions, collusions, deceptions, litigations, expenses, and frauds of the examination nuisance should be abated. It is a thing which will have to be abolished before many years, or at least greatly modified as a matter of necessity. We have in some respects the best patent system in the world, especially in two particulars: it does not tax a patent, as is done in England and elsewhere, and it protects the patentee for seventeen years, a longer period than is done by any other nation except Spain.

But the examination feature of our system as at present administered is a dead failure, as by pretending to guaranty both originality and utility it causes more patents to be issued than would occur under the registry system, promotes fraud, encourages litigation, and offers a premium for levying black-mail in many directions, particularly from innocent consumers and users of so-called patented articles.

Mr. WILLIAMS, of Illinois. Mr. Chairman, I understand that these salaries were fixed at \$2,400 in the Forty-fourth Congress and have remained at that figure since that time. It is not proposed in this bill to increase the salaries of men who are receiving \$1,200 and \$1,400 a year; they are still to be required to support themselves and their families on the salaries they have been receiving. The increase applies only to this particular class who are receiving the larger salaries. Mr. Chairman, when we look at the present prices of all the commodities necessary for the support of a man and his family, we find that these men can live at much less expense to-day than they could when their salaries were fixed at \$2,400. The men who are profiting to-day more than any others by this fall in the prices of agricultural products and all the products of labor are the men with fixed salaries or fixed incomes from any source. For this reason, among others, Mr. Chairman, we should not at this time increase the salaries of these officers.

If I had as much faith as the distinguished gentleman from Ohio that the approaching tariff bill will give relief to the oppressed people of this country, I might persuade myself to consent to increase these salaries a little; but even then I should hesitate.

But, sir, in face of the fact that there is no relief in sight for the farmers and other laboring classes of the country whose money we are appropriating, these officers should be kept at their present salaries. If they are unwilling to serve, if they can find better places, this additional \$100 will not induce them to remain in office; they will accept better positions, and probably we shall find better men to take their places. For these reasons, Mr. Chairman, I am opposed to increasing the salaries of these officers or any others.

[Here the hammer fell.]

The CHAIRMAN. The gentleman from Ohio [Mr. BUTTERWORTH] is now entitled to the floor.

Mr. BUTTERWORTH. I yield three minutes to the gentleman from Connecticut [Mr. SIMONDS].

Mr. SIMONDS. Mr. Chairman, the gentleman from Iowa [Mr. KERR] sought to deter us from executing the law as it stands upon the statute-book by holding out before us the fear that we shall be retired from Congress. I have not that particular fear before my mind. It does not strike me as the worst misfortune that can happen to a man—

Mr. KERR, of Iowa. I was not anxious about myself being in Congress, but about the party that will be in power here.

Mr. SIMONDS. Very well. I presume the Republican party of the First district of Connecticut can furnish an acceptable Republican Representative if I happen to retire. But, sir, if I had that fear before my mind a thousand times stronger than the gentleman from Iowa has expressed it, that would not deter me from doing simple and absolute justice in this matter. As I sat here I heard a gentleman at my left calculating how many bushels of wheat it would take to pay the additional amount which would be required to pay these salaries as fixed by law. Gentlemen of this House ought to understand the truth about this matter.

This is not an increase of salary. It is an attempt to obey the law as it stands on the statute-book. And there is not a dollar of these salaries that comes out of the pockets of the people by taxation. Every year that passes over us the Patent Office turns into the Treasury of the Government a quarter of a million of dollars of surplus over and above all expenditures, and there is now in the Treasury of the United States to its credit over \$3,000,000. How, then, can gentlemen stand upon this floor and make suggestions or assertions to the effect that this money comes out of the pockets of the tax-payers of the country, out of the people, when these vast sums come from a particular fund derived from a particular source, paid by inventors for a specific purpose under the law?

Mr. KERR, of Iowa. Does not the money belong to the people?

Mr. SIMONDS. It does belong to the people in a certain sense undoubtedly. In a technical sense, but not in a moral sense, it belongs to the people. It is not money derived from them by taxation. It originates from fees collected by the office. It was never intended to establish the Patent Office as a means of revenue to the Government. It was established for the benefit of the industries of the nation in general, and not, I repeat, as a means of revenue. Considering it therefore in that light, it does not belong to the Government—

Mr. WILLIAMS, of Ohio. On the theory of the gentleman's argument, why not give as salary to the officials of the office all of the receipts derived from it?

[Here the hammer fell.]

The CHAIRMAN. The time yielded to the gentleman has expired.

Mr. SIMONDS. I understand I have two minutes more allotted to me of the time on this side.

Mr. Chairman, the gentleman from Tennessee [Mr. WASHINGTON] has risen in his place to say that these examiners do not perform judi-



cial functions, that their office is not a judicial one. Now, I have had long experience in connection with the office in years past, and I know exactly what the duties are that are performed by these examiners. There is no kind of duty that has more of judicial functions in its nature than the duties performed by the examiners of the Patent Office.

Judge Story, than whom no man ever spoke upon this matter with higher authority, repeatedly spoke of patent law as the metaphysics of the law, and these men are executing judicial functions of the highest kind in the performance of the duties devolved upon them. They deal with abstract and difficult questions habitually, which are involved in pending cases. They have to examine into the state of the art as to questions pending before them, including patents in this and in foreign countries and including all of the literature of the civilized world which treats upon the subject, and in the light of the information thus gained to determine whether a certain application before them presents in their judgment novel features and an improvement which is, within the law, patentable. There is no part of the Government, no Department of the Government, which begins to be of the practical importance of this to the people of the country.

I am very well aware, Mr. Chairman, that it has been the practice in this House, and in both Houses of Congress, to think of this bureau as a place chiefly where men of very eccentric habits of thought or ideas are employed. But the solid, the substantial fact of the matter is that no other department connected with the Government is more closely identified with the people, more indissolubly linked with the prosperity of the people and their progress, than is the Patent Office.

The examiners that are employed in the Patent Office rank far above the average of the employes in the other departments of the Government. They can not execute the duties they are necessarily called upon to execute in that department without possessing a degree of ability not necessarily to be found in other departments.

My good friend from South Carolina [Mr. TILLMAN] has tried to throw ridicule upon this very useful department of the Government by citing certain patents which may cause derision. There may be, and doubtless are, a few of these cases; such is unavoidable in the workings of the office. But, on the other hand, is the sewing-machine a matter to cause derision; is the telegraph a matter to cause derision; is the telephone a matter to cause derision, or are thousands of other great examples which I might cite if I had time?

A word further, Mr. Chairman, and I am through. My good friend from South Carolina [Mr. TILLMAN] said that this department ought to be abolished. Let me say to you, gentlemen, in response to that, that the Government of Great Britain, the Government of Canada, and the Government of Germany, have followed our example, have copied our system in almost all of its details, and that the other governments of the world are approximating in that direction.

[Here the hammer fell.]

Mr. MOREY. Mr. Chairman—

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. MOREY. I believe a part of the time was reserved for me.

The CHAIRMAN. The Chair had intended to recognize the gentleman from Ohio, but two minutes additional time had been yielded to the gentleman from Connecticut, and the entire time allowed for the debate has been consumed.

Mr. MOREY. But I understood that two minutes were expressly reserved for me.

The CHAIRMAN. In the absence of objection the gentleman from Ohio will be permitted to pursue his remarks for two minutes.

There was no objection.

Mr. MOREY. I am with my friend from Missouri on this proposition. I am opposed to any increase of salaries of the Government employes at this time and I shall vote against every such proposition. Therefore, I am in favor of this amendment. I believe, sir, that the employes of our Government receive salaries which are commensurate with the salaries paid for like services in the private walks of life. When we consider the fact that the compensation of these employes is certain, that it is continuous, that it is without accident, that it is not based on any uncertainty, the employes are paid as well as those occupying similar positions in any other walks of life.

Sir, in the State of Ohio our common pleas judges are paid only \$2,500 a year. For fifteen years these principal examiners have performed their duties for \$2,400 a year. We are told this is in violation of the law of the United States fixing their salaries at \$2,500 per annum. I do not find it so. I have before me the Revised Statutes of the United States of 1878, and I find no such provision of law fixing the salary of these principal examiners at \$2,500 a year. It is in the power of this Congress to fix the salaries of these officers. The time is inopportune to increase salaries of officers when great industries of this country are depressed and appealing to this Congress for relief. It is easy to get salaries up; it is difficult to get them down.

I am opposed to increasing salaries, and hence I shall support the amendment to keep the salaries of these principal examiners at \$2,400, where they have been for fifteen years, and against increasing to \$2,500, as is proposed in the bill.

[Here the hammer fell.]

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Missouri.

The committee divided; and there were—ayes 71, noes 44.

So the amendment was adopted.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For purchase of books, and expenses of transporting publications—

Mr. WASHINGTON. Mr. Chairman, I raise the point of order on line 2, page 13, against the words, "five thousand dollars," fixing the salary of the Commissioner of Patents at that figure. The Revised Statutes of the United States fix the salary of the Commissioner of Patents at \$4,500.

Mr. BUTTERWORTH. Mr. Chairman, I make the point of order that the point of order made by the gentleman from Tennessee is too late.

The CHAIRMAN. The Chair is of opinion that the point of order comes too late.

Mr. WASHINGTON. I hope the Chair will indulge me on that point.

Mr. CANNON. I raise the question of order that the section had been passed.

Mr. WASHINGTON. Mr. Chairman, I had the right to raise the point of order before the Chair ruled, and I desire to make the point of order against the salary of the Commissioner of Patents.

The CHAIRMAN. The Chair has already ruled that the point of order was made too late.

Mr. WASHINGTON. Under the rules of the Committee of the Whole I could not make the point of order until the section had been read through. As soon as the Clerk finished reading I addressed the Chair simultaneously with my friend from Missouri [Mr. DOCKERY], who was recognized and offered an amendment, which was debated at great length, and while that debate was proceeding I went up to the Speaker's desk and personally informed the Chair that it was my intention to make this point of order, and I claim the right to make it now, and insist that I could not have made it until now, this being the first opportunity since the gentleman from Missouri [Mr. DOCKERY] offered the amendment just voted on.

Mr. CANNON. Now, the point of order is too late, because a point of order must be made before an amendment is made. The gentleman sat still and failed to make his point of order until the amendment had been offered to the paragraph, debated for two hours, and voted upon, and therefore I say it is too late.

Mr. WASHINGTON. That is on an entirely different part of the paragraph.

The CHAIRMAN. The Chair is informed that unless a point of order is reserved before the paragraph is amended, it comes too late.

Mr. WASHINGTON. I walked up to the Chair and said while the debate was going on that I had a point of order to make against this section. I could not take the gentleman from Missouri off of the floor nor gain recognition until that amendment was disposed of so as to make my point of order. The gentleman from Illinois seems to be very technical and to make his point of order only when he considers it is needed to sustain him in an emergency.

Mr. PETERS. The point of order proposed by the gentleman from Tennessee was made too late.

Mr. WASHINGTON. I appeal from the decision of the Chair, and I ask to offer this amendment if I am to be ruled out on a technicality.

Mr. CANNON. The gentleman can use all the time he wants, but we did want to pass this bill to-night.

Mr. WASHINGTON. I do not want to consume much of the time of the committee.

Mr. CANNON. But that is what you are doing. You did not make the point of order until it was too late.

Mr. WASHINGTON. Nothing is further from my intention than a desire to consume the time of the committee; but we all want to know what is being done. We saw a bill rushed through here the other day under whip and spur which absolutely changed the whole judiciary system of the United States, and not ten men in the House outside the immediate members of the committee knew what was in that bill. No man knew or knows now how the interests of his constituents were affected by that bill; and, sir, I earnestly protest against measures being railroaded through this House and all debate cut off under the plea that we have not time to consider and discuss a measure or on some technical point of order.

The CHAIRMAN. The gentleman from Tennessee is not in order.

Mr. WASHINGTON. The gentleman from Tennessee has the right of appeal, and I appeal from the decision of the Chair declaring my point of order to be not in order.

The CHAIRMAN. The gentleman from Tennessee has appealed from the decision of the Chair. The Chair has held that the gentleman from Tennessee had waived his right to make the point of order because he did not make it until the committee had entered upon the next paragraph. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. BUTTERWORTH. I move to lay the appeal on the table.



The appeal was laid on the table.  
The Clerk read as follows:

For purchase of books and expenses of transporting publications of patents issued by the Patent Office to foreign Governments, \$3,000.

Mr. BUTTERWORTH. I offer the following amendment that simply authorizes the exchange of public documents. That is already done.

The Clerk read as follows:

In line 16 insert the following:  
"Provided, That hereafter the Official Gazette may be exchanged for publications of a scientific or useful character published in this or any foreign country adapted to the needs and uses of the scientific library of the Patent Office."

The amendment was agreed to.

The Clerk read as follows:

Bureau of Education: For the Commissioner of Education, \$3,000; collector and compiler of statistics, \$2,400; chief clerk, \$1,800; two clerks of class 4; one statistician, \$1,800; two clerks of class 3; one translator, \$1,600; four clerks of class 2; six clerks of class 1; two clerks, at \$1,000 each; seven copyists; one skilled laborer, \$840; two copyists, at \$300 each; one copyist, \$720; one assistant messenger; two laborers; two laborers, at \$480 each; one laborer, at \$400; and one laborer, at \$360; in all, \$45,420.

Mr. DUNNELL. I move to strike out the word "three" in line 15 and insert the word "four." I make this motion—

Mr. HOLMAN. On that I raise the point of order.

The CHAIRMAN. What point of order does the gentleman from Indiana raise?

Mr. HOLMAN. That the salary provided for by existing law can not be changed on a general appropriation bill.

Mr. DUNNELL. Mr. Chairman, I would like to be heard.

The CHAIRMAN. The Chair understands that the gentleman desires to be heard on the point of order. The Chair will hear the gentleman on that question.

Mr. DUNNELL. I understand that it is not in order to move an amendment to the amount fixed by the permanent law as the amount of compensation of an officer of this Government, but it ought to be in order if it is not in order. We are thus held down by a most infamous rule [laughter and applause on the Democratic side] and prevented from doing what is right. [Renewed applause.] The law provides that this officer shall have a salary of \$4,000. The Committee on Appropriations has provided for the—

The CHAIRMAN. The gentleman from Indiana will please give his attention. Does the gentleman know what the statute provides as to this salary?

Mr. HOLMAN. My recollection is that the salary was fixed at the other sum.

The CHAIRMAN. The Chair is advised that the statute fixes the salary of this officer at \$3,000. If there is any mistake the gentleman from Minnesota can probably point it out.

Mr. DUNNELL. I am advised to the contrary.

The CHAIRMAN. The Chair would be obliged to rule on the question—

Mr. DUNNELL. Well, let me go on. It will be discovered by any one who examines this appropriation bill that the bill pays no possible attention to the statutes of the United States. Take the Commissioner of Pensions; he is allowed by law \$4,000 a year and they bring in an appropriation bill giving him \$5,000. The Auditors of the United States, six of them, are entitled by law to a salary of \$4,000 each, but the Committee on Appropriations brings in a bill paying them a compensation of \$3,600. This has been done now for a series of years. And so you may go through the entire list and you will discover that in but very few instances is there a compliance of the appropriation with the law.

The CHAIRMAN. The Chair desires to call the attention of the gentleman from Minnesota to the provision of the Revised Statutes, page 86, section 617, where the salary of this officer is fixed at \$3,000. If that statute has been amended the Chair desires to be informed of it.

Mr. DUNNELL. Is that in an appropriation bill?

The CHAIRMAN. It is not. It is in a general statute of the United States, and unless that statute has been amended the Chair will be compelled to hold that the point of order is well taken.

Mr. DUNNELL. I am satisfied that we have appropriated at some time a salary of \$4,000 for this officer.

The CHAIRMAN. That would not alter a general statute, and unless the gentleman can show that the statute has been amended or repealed the point of order must be sustained.

Mr. WASHINGTON. I appeal to the gentleman not to delay the bill. [Laughter.]

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

For surveyor-general of the Territory of Arizona, \$2,500; and for the clerks in his office, \$3,000; in all, \$5,500.

Mr. SMITH, of Arizona. I offer the amendment which I send to the desk.

The Clerk read the amendment as follows:

Amend lines 6 to 9 inclusive, on page 89, so as to read as follows:  
"For surveyor-general of the Territory of Arizona, \$3,000; and for the clerks in his office, \$3,000; in all, \$8,000."

Mr. HOLMAN. Mr. Chairman, I make the point of order on that. Mr. SMITH, of Arizona. Can the gentleman state what is the legal salary of the surveyor-general of Arizona?

Mr. HOLMAN. Two thousand five hundred dollars, I think.

Mr. SMITH, of Arizona. I think the gentleman is wrong; I think it is \$3,000.

Mr. HOLMAN. Yes, I see by the statute that the gentleman is right. The amount named is \$3,000.

Mr. BUTTERWORTH. The statute allows this officer \$3,000, but in principle this is the same case with which we have just dealt. There is a difference of \$600 between the salary fixed by law and the amount appropriated.

Mr. SMITH, of Arizona. Yes, but the difference between the cases is very material. The instance just ruled upon was one where, so far as we know, no other earthly being except the recipient obtained any benefit from the increase of the salary; but in this case, while the recipient will receive what the law allows him, it will also enable him to carry out what the law intended should be carried out; it will enable him to afford some convenience and some accommodation to the people who are attempting to settle up that Western country. Now, the surveyor-generalship of Arizona is an office of vast importance, and it is a ridiculous idea to fix the salary below what the law allows, which is itself a pitiable sum. Three thousand dollars does not compensate that officer at all. There are many instances in which, outside of the duties provided by law, he is put to great personal expense, and it seems to me outrageous that any portion of his poor salary should be taken from him in this way.

But there is another reason for this amendment: the increase of the amount appropriated for the hire of clerks in that office. It is impossible now for anybody in that vast Territory who has anything to ask from the office of the surveyor-general to get it within less than three years after the time he asks for it, and this not because the surveyor-general is not a diligent and efficient officer, but by reason of the fact that Congress will not permit him, in that country, where people do not work for nothing, to have money enough to get the work off his hands. Five thousand dollars for clerk-hire for that office is a mere pittance, and I do insist that this House shall give some sort of chance to the people who have business before that office. In every one of the Territories I believe the same condition exists.

If we get a survey made we can never get it platted. If we make an application we can never get the work done; there is no money, no clerks, nothing. People are kept upon their lands year after year without knowing when they will get title or even when they will be in a condition to apply for it; and, as I have said, this is true not only in Arizona, but also, I believe, in the other Territories. Now, I ask that at least the sum named in this amendment shall be appropriated in this bill. That is no more than right, and it will absolutely cripple the public service to keep the appropriation down to the figures in the bill.

Mr. HOLMAN. Mr. Chairman, I find that by the Revised Statutes the salaries of the surveyors-general of the Territories are fixed at \$3,000 each.

Mr. SMITH, of Arizona. I wish to occupy only one moment longer. I ask that this appropriation for clerk-hire be placed at \$5,000 instead of \$3,000, because with the present allowance for clerk-hire the work which ought to be done can not be done, and the surveyor-general of the Territory ought to have the salary which the law allows him, \$3,000. I say that in this matter Arizona is not in the same situation as the other Territories. I know personally that in a late examination connected with a private land grant which was investigated in Arizona the surveyor-general spent hundreds of dollars out of his own pocket because he could not otherwise obtain the means to make the proper inquiry. The amount allowed here is a pitiable sum. We ought to appropriate the full amount provided for by law.

Mr. CANNON. Mr. Chairman, the surveyors-general in all these other Territories which are to follow are on all fours with this officer in Arizona. In the memorable Forty-fourth Congress his salary was cut down \$500, and there it has remained ever since. I appeal to gentlemen on the other side to come in now and help us sustain the precedent which they set so vigorously a few moments ago in refusing an increase of \$100 in the salaries of examiners in the Patent Office.

I wish to say further that in my opinion—and I measure my words—\$2,500 is as much as the surveyor-general of any State or Territory ought to receive. The duty of this officer is to let the contracts for the surveys. The surveys are made under contract. Then come in the local land office, the inspector, the special agent; and no survey of late years is or ought to be approved until the special agent has examined it. So that the land office proper—the office of the register and receiver—is where you want the force, and you want a liberal supply of land agents to make these examinations. So far as the surveyor-general is concerned, I have for years been of the opinion—and I think this is the view of the gentleman from Indiana [Mr. HOLMAN] after full examination—not only that the salary now received is sufficient, but that the office ought to be abolished entirely. This whole work could be done and much better done at the Land Department by advertising for these contracts.



I think, too, that the force of clerks allowed by the bill is sufficient. The committee has fully considered all these cases, and after such consideration has reported this bill in accordance with the law as it has been from year to year since the Forty-fourth Congress.

[Here the hammer fell.]

Mr. SMITH, of Arizona. Before the gentleman takes his seat I would like to ask him a question.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. HOLMAN].

Mr. HOLMAN. Mr. Chairman, I wish to call the attention of my friend from Arizona [Mr. SMITH] to the fact that there are some ten or eleven of these officers. The salaries of the surveyors-general of Oregon and Washington have been fixed by law at \$2,500, while for Colorado, New Mexico, California, Idaho, Nevada, Montana, Utah, Wyoming, and Arizona the salary of this officer as fixed by law is \$3,000. Now, these salaries were fixed during the war period, and it is quite obvious, in view of the basis on which they were fixed years ago, that the salary of \$2,500 for this officer is as proper to-day in every one of the Territories and the land States as it was in Oregon and Washington when the salary was fixed at \$2,500.

I agree with the gentleman from Illinois [Mr. CANNON]. An exhaustive investigation of this subject has shown, I think, that the office of surveyor-general ought to be abolished; that the contracts ought to be made here at the Department.

Mr. SMITH, of Arizona. The law as it now exists—and I know the gentleman from Indiana is perfectly well acquainted with it—makes it obligatory upon the surveyor-general of the particular Territory which I represent to investigate the fraudulent, or whether fraudulent or not, the Mexican land-grant claims, which are a menace to that whole country. In consequence of the pitiful allowance now made to this officer he is obliged to spend his own money in carrying on these investigations. The sum of \$3,000 is not a sufficient allowance for clerk hire—

Mr. HOLMAN. Will the gentleman allow me a moment? In New Mexico, where there exists similar trouble to that stated by the gentleman, but in a greater degree, the office of surveyor-general was held during four years by a very able gentleman from my own State, Mr. George W. Julian.

Mr. SMITH, of Arizona. I know him.

Mr. HOLMAN. He is one of the very ablest men in my State, was especially well fitted for that office, and he served there on a salary of \$2,500. These salaries were fixed at \$2,500 in 1876, and they have remained unchanged. During the twelve or fourteen years which have intervened there have been occasions when the argument now made by my friend would have been much stronger than it is now.

I trust there will be no hesitation about this matter. The question is not simply as to Arizona. There are ten or eleven salaries to be affected by our action on this question.

Mr. CANNON. Now let us have a vote.

The question being taken on the amendment of Mr. SMITH, of Arizona, it was rejected.

The Clerk read as follows:

For surveyor-general of North and South Dakota, \$2,000; and for the clerks in his office, \$7,000; in all, \$9,000.

Mr. PICKLER. I move the amendment which I send to the desk.

The Clerk read as follows:

In line 1, of page 90, strike out the words "and South;" so as to make the paragraph read:

"For surveyor-general of North Dakota, \$2,000; and for the clerks in his office, \$7,000; in all, \$9,000."

Mr. CANNON. I reserve a point of order on that amendment.

Mr. HOLMAN. I raise the point of order.

Mr. PICKLER. What is the point of order?

Mr. HOLMAN. My point of order is that no law has yet been passed, so far as I am aware, creating the office of surveyor-general for both of the Dakotas. There is and has been for many years a surveyor-general for the Territory of Dakota; but I believe no act has yet been passed providing for two surveyors-general, one for each of these new States.

Mr. PICKLER. The gentleman is mistaken; the act has been passed.

Mr. HOLMAN. Has it passed both Houses?

Mr. PICKLER. Yes, sir; and has become a law; and recommendations have been made in accordance with that law.

Mr. HOLMAN. I was not aware that the bill had passed the Senate; I knew it had passed the House.

Mr. CANNON. I move to amend the amendment, if that be true, by striking out "\$7,000" and inserting "\$3,500," in lines 2 and 3.

Mr. PICKLER. This matter, Mr. Chairman, directly concerns the gentleman from North Dakota, who is not now in his seat. But I protest against any such amendment being adopted.

Is it possible that the Appropriations Committee are resolved not to let any business be carried on in the public land offices there? Thirty-five hundred dollars to run a surveyor-general's office is utterly inadequate. The Committee on Appropriations can not say that they have fairly and fully considered this matter or they would not have proposed such a thing.

Mr. CANNON. Now, Mr. Chairman, I will yield to the gentleman, if he desires it, half of the time.

Mr. PICKLER. But I had the floor. I beg the gentleman's pardon. The CHAIRMAN. The gentleman from Illinois was entitled to the floor, having offered an amendment to the amendment.

Mr. PICKLER. But I did not yield the floor.

The CHAIRMAN. The gentleman from Illinois proposed an amendment, the gentleman from South Dakota having yielded the floor.

Mr. PICKLER. But I did not yield the floor. I do not wish to take up any of the time of the committee further than necessary, and I desire to occupy the floor for a short time only.

Mr. CANNON. I have offered to yield the gentleman half of my time.

Mr. PICKLER. Well, I may want some of my own. [Laughter.] I was saying, Mr. Chairman, that it seems to me the committee could not have so carefully considered this matter or they would have ascertained that there is no such office in existence as surveyor-general for North and South Dakota.

Now, \$3,500 is proposed to be given only for the office of surveyor-general there; and with the new reservations coming in and new work constantly opening up I tell you it is utterly inadequate, and you had just as well abolish the office, and for the reason set forth by the gentleman from Arizona [Mr. SMITH], that while they may do the business in the field the office can not possibly do its work, and the matter never reaches the General Land Office. I think we ought to have a very liberal allowance for clerk-hire in this office, and \$3,500 is utterly inadequate.

Mr. CANNON. In reply to the gentleman from South Dakota, the item was for a surveyor-general for North and South Dakota, both combined, \$2,000 for salary, and for clerks in the office \$7,000. Now, the act having been passed creating the office of surveyor-general in South Dakota and one in North Dakota, making two offices instead of one—which in my opinion never ought to have been done, for one surveyor-general is enough and more than enough for the two States; but it has been done, and hence we have to make the appropriation; that we can not help; but the \$7,000 for the office for the two—the States having been divided, it is now proper that we should also divide the sum, making \$3,500 each.

The gentleman says that the Sioux reservation has come in. Yes; but mind you, the surveyor-general only lets out the contracts. He does not survey an acre of the land, and so far as the plats are concerned they are made and placed in the local land office for the use of special land agents to pass over the ground after this survey and see that it has been done properly. All that has got to be done, and I therefore insist upon the amendment.

The amendment to the amendment was adopted.

The amendment as amended was adopted.

The Clerk read as follows:

For rent of office for the surveyor-general, fuel, books, stationery, and other incidental expenses, \$1,500.

Mr. PICKLER. I offer the amendment I send to the desk.

The Clerk read as follows:

Insert at the end of line 6, on page 90:

"For surveyor-general at South Dakota, \$2,000; and for the clerks in his office, \$10,000; in all, \$12,000."

"For rent of office for the surveyor-general, fuel, books, stationery, and other incidental expenses, \$1,500."

Mr. CANNON. I wish to offer an amendment to that.

Mr. PICKLER. I will yield part of my time to the gentleman from Illinois to offer an amendment. [Laughter.]

Mr. CANNON. I think, as a matter of fact, I have the right to offer an amendment.

The CHAIRMAN. But the gentleman from Illinois can not take the gentleman from South Dakota off the floor to offer an amendment if the gentleman desires to occupy the floor.

Mr. PICKLER. I am willing to yield to the gentleman to offer an amendment.

Mr. CANNON. The gentleman kindly yields to me, and I thank him.

I move to strike out "\$10,000" from the amendment for clerk-hire and insert "\$3,500," the same amount given to North Dakota.

Mr. HOLMAN. There is another item embodied in the amendment further on of \$1,500; and I hope the gentleman will make his proposition to lower both amounts proposed to be appropriated, the \$10,000 and the \$1,500.

Mr. CANNON. This is all right. The \$1,500 should be there under a separate head.

Mr. PICKLER. That is for fuel, office rent, etc.

Mr. CANNON. But the \$10,000 for clerk-hire I move to amend by making \$3,500, the same as was provided for North Dakota.

Mr. PICKLER. Why don't you make it a thousand? [Laughter.] It is evident to my mind, Mr. Chairman, that the gentleman from Illinois does not understand the situation. That is plainly evident from the history of the case here, where he proposed to appropriate for only one office and that office not in existence. I think it is manifest, therefore, that I have not stated the case too strongly.

Now, the State of South Dakota is in a different position from North



Dakota, upon which the committee has just passed. As I said before, the great Sioux reservation, consisting of 11,000,000 of acres, has come in under the late law of Congress. One hundred thousand dollars was appropriated in that act for the survey of this vast tract of land. The rule in the Land Department, as I am informed, is that 10 per cent. of the amount allowed in the appropriation should be added for clerk-hire. The survey of this vast amount of land is to be made, and the gentleman from Illinois can not claim that with an expenditure of \$100,000 in surveys the office work can be done in the surveyor-general's office by clerks for \$3,500. If he can establish that fact I will resign my place. [Laughter.]

Mr. CANNON. Will the gentleman allow me?

Mr. SPINOLA. Do not resign.

Mr. CANNON. We are appropriating for one year which is to the end of the next fiscal year, and yet these surveys have not as yet been contracted for, and still you ask for these clerks. The surveys must be made, and the special land agents must examine all of them, and you can not get one-tenth of it done before the next fiscal year.

Mr. PICKLER. That is just exactly the difference between the proposition of the gentleman from Illinois and mine; we can not get it until this year has expired. He says that this work can not be done this year, and therefore that there shall be no appropriation made. The surveyors are all ready to go into the field under the appropriation of \$100,000 which has passed. The contracts have been made with the subcontractors already, and I expect if we could get clerk-hire enough that we would be able to have this land open for settlement in ninety days from this time.

The fund itself will be necessary in ninety days, and the position that the gentleman takes up simply keeps this land out of the market for a year, and there is no sense or judgment in appropriating \$100,000 to make these surveys and then not give a sufficient amount of clerical assistance in the land office to carry it out.

Mr. WASHINGTON. The gentleman says, as I understand, that the gentleman from Illinois does not understand anything about it. Will he state whether he understands anything about the surveys of Oklahoma—the Bussey of Oklahoma? [Great laughter.]

Mr. PICKLER. What has that to do with this?

The CHAIRMAN. Debate upon this amendment is exhausted. The question is upon agreeing to the amendment offered by the gentleman from Illinois to the amendment of the gentleman from South Dakota.

The question was taken; and the Chairman announced that the ayes seemed to have it.

Mr. PICKLER. I demand a division.

The House divided; and there were—ayes 63, noes 30.

So the amendment was agreed to.

The CHAIRMAN. The question now recurs on the amendment of the gentleman from South Dakota as amended.

The amendment was agreed to.

The Clerk read as follows:

For surveyor-general of the Territory of Idaho, \$2,500; and for the clerks in his office, \$1,500; in all, \$4,000.

Mr. DUBOIS. I offer the following amendment.

The Clerk read as follows:

Amend in line 21, page 90, by striking out "one thousand five hundred" and substituting therefor "three thousand," and at the end of the line strike out "four thousand" and substitute "four thousand five hundred."

Mr. DUBOIS. This is a mental exercise that every Representative of the Territory has to go through every session of Congress. After we have served here two or three times we go back and another Delegate takes our places. He really hopes that he can get such an amendment as this through and get the work necessary to be done accomplished in his country. After we have been here two or three times we discover that the only legislation for the Territories that is proposed and passed is to restrict them. Now, in this amendment, which I offer, I ask that my Territory have \$3,000 for clerk-hire. That is the lowest amount that any Territory or State gets. They give the Territory of Idaho \$1,500, when they gave to every other Territory \$3,000.

The estimate from the office asks for \$4,800, and in submitting the estimate they say:

The estimate of \$4,800 for clerk-hire is submitted in view of the increased appropriation for surveys to bring up arrears of office work to enable the surveyor-general to prepare a working diagram upon which to plat the executed surveys and those to be made from year to year, and to prepare descriptive lists for the local land offices, as required by section 2395, United States Revised Statutes.

Yet they have only given to that Territory \$1,500, while they give to every other Territory at least \$3,000, and also to every other State. I simply ask to have the amount for my Territory brought up to the lowest at least.

Mr. FORNEY. I desire to ask the gentleman a question.

Mr. DUBOIS. Certainly.

Mr. FORNEY. Do you not expect this Territory to be admitted soon as a State?

Mr. DUBOIS. But this appropriation will go on as it is if it were a State; but when we have two Senators and a Representative we will get more.

Mr. FORNEY. They refused to give you anything for your Territorial Legislature, and I think this had better be put at what it is.

Mr. DUBOIS. We need the survey just as much when we have a State as we do as a Territory.

Mr. CANNON. I would be very glad to vote for the amendment of my friend if I could because he has presented it so handsomely. They will have \$1,500 a year. That is what has been given heretofore, and we have done pretty well by Idaho thus far. The gentleman will be able to take care of this item himself next winter when in the other end of the Capitol, I hope.

The question was put and the Chairman announced that the noes seemed to have it.

Mr. DUBOIS. Division.

The committee divided; and there were—ayes 24, noes 45.

So the amendment was rejected.

The Clerk read as follows:

For surveyor-general of Oregon, \$1,800; and for the clerks in his office, \$3,000; in all, \$4,800.

Mr. HERMANN. I move to amend by striking out "\$1,800" and inserting "\$2,500." And, Mr. Chairman, in support of that motion permit me to say that the justice of the amendment has been already acknowledged by the gentleman from Indiana [Mr. HOLMAN] and the gentleman from Illinois [Mr. CANNON]. An impression exists among members, and especially on the part of the gentlemen I have named, that the salary of the surveyor-general of my State is \$2,500, and therefore I assume that an error has been made in the committee-room in fixing this appropriation at \$1,800. In the Revised Statutes of the United States will be found this provision:

The surveyors-general of Oregon and of Washington shall each receive a salary at the rate of \$2,500 a year.

Now, Mr. Chairman, permit me to say this in addition: There are 60,000,000 acres of land in my State. The area is embraced within a limit of 96,000 square miles. There are 20,000,000 of acres yet remaining unsurveyed. The great portion of the work of the surveyor-general of Oregon now is in the correction of the surveys made in the matter of the allotment of lands in Indian reservations in that State. One reservation is now being surveyed for the second time for the purpose of correcting errors made in a previous survey, and everybody who is familiar with the facts attributes those errors to the insufficiency of the clerical force in the office of the surveyor-general of my State. Now, that survey has been remanded a second time for revision and for a resurvey.

I ask my friend [Mr. CANNON] whether, in the interest of the public service, he thinks it is just to any competent official, especially to one who possesses the skill of a surveyor and who is exalted to the position of surveyor-general of a State, that he should be required to occupy that position and that, while the law guarantees him a salary of \$2,500 a year, Congress should appropriate only \$1,800, and should expect that he can perform the duties of his office with that care, exactness, and precision which are so necessary in the surveys which constitute, I may say, the very base of our land title. I ask the gentleman whether he thinks such an official can reside in a city like the one in which the surveyor-general of Oregon resides, with his family, and exist comfortably, or even decently, upon the sum of \$1,800, a salary which is allowed to some of the most inferior clerks in the Departments of the Government here in Washington? Therefore, in the interest of the public service and in the interest of justice and of right, I ask the chairman of the Committee on Appropriations to agree that this amendment shall be made.

Mr. CANNON. Mr. Chairman, the surveyor-general of Oregon has received \$1,800 a year ever since 1876, the same salary the surveyor-general of Minnesota receives, and, as my good friend knows, substantially all that he has got to do is to let the contracts for the surveys. The surveyor-general does not survey an acre of land, and if I had my way about it I would have this and every other surveyor-general abolished, because they do not perform any considerable service for the Government, and certainly their salaries, in my judgment, are sufficiently large.

Mr. HERMANN. Well, until the office is abolished why deny to this officer the reasonable compensation allowed him by law?

Mr. CANNON. The amount in the bill is all that these officers have been getting for years.

Mr. HERMANN. Mr. Chairman, this is a matter of very great importance to the gentleman who occupies that office in my State, and I know this House would not vote down my amendment when the facts are before them and when every fact points to the injustice of the appropriation in the bill. I ask the House further to bear in mind that the gentleman [Mr. CANNON] is mistaken in his assumption as to the duties of the surveyor-general. Those duties are not merely formal; they are very responsible duties. He has to pass upon all the surveys that are made in the State before they are submitted to the Commissioner of the General Land Office for his approval, and especially is this true in the matter of contracts.

Mr. CANNON. Does not my friend know that under the practice of the Land Office there is not one of these surveys approved on the recommendation of any surveyor-general until after the Land Office has sent a special agent, who goes and examines and makes a report? Does



he not know that the General Land Office will not trust a single one of these officials?

Mr. HERMANN. That does not relieve the officer from the responsibility which the law imposes upon him.

The question was taken on the amendment of Mr. HERMANN, and it was rejected—ayes 31, noes 40.

The Clerk read as follows:

For surveyor-general of the Territory of Wyoming, \$2,500; and for the clerks in his office, \$3,000; in all, \$5,500.

Mr. CAREY. Wyoming is evidently at the tail in this case, but I desire to ask that the word "three," in line 24, be stricken out and the word "five" be inserted in lieu thereof; also, that the word "five," in line 24, be stricken out and "seven" be inserted in its stead.

Mr. CAREY. Mr. Chairman, this amendment is in accordance with the recommendation of the General Land Office. From what I know of the surveyor-general's office in Wyoming Territory I believe that it would be economy to give this increase in the appropriation. It is necessary for the prompt transaction of the business of that office.

I do not expect this amendment to be adopted, for it is very evident that the great West to-day has "fallen among the Philistines." After this Committee of the Whole has refused to-day to give to the General Land Office, a sufficient number of clerks to transact the business of that office, so that those in the West who have made settlements under our land laws may speedily obtain their patents, I can not expect the committee to agree to this amendment. I am afraid that gentlemen on this committee have not considered the true interests of Western people. There is enough money in the Treasury to make public parks which few of the people now living on the plains will ever see. There is enough money in the Treasury to maintain a bureau for the purpose of propagating fish at a cost of several hundred thousand dollars per annum. There is money enough in the Treasury to vote over a half million of dollars per annum for a bureau which is engaged largely in digging out and discovering the bones of animals which have been defunct for centuries, a bureau that affords a place of retreat for relatives of members, their sons-in-law, their aunts, and their cousins. This bureau may be very important to those who have the time and inclination to study science; but it is not very interesting to those people who live in little log cabins out upon the plains; it is not very satisfactory to those men when, in answer to their letters, we are obliged to say, "The land office has replied to our inquiry stating that your case can not possibly be reached for eighteen months or two years, for want of sufficient force in that Department."

These questions to the West are living questions. During four years under the last Administration the business was tied up. I was told by the Commissioner of the General Land Office that it was the policy to delay the cases which prevented settlement in the West. I know that agents were sent out to that country at a large expense to annoy and prosecute those people. I know that settlers were deprived of their rights for four or five years in cases where, on investigation since this Administration came into power, no fault or defect could be found in their titles.

I am surprised to-day that the gentleman from Illinois [Mr. CANNON] and the gentleman from Ohio [Mr. BUTTERWORTH], who are managing this appropriation bill, can not be sufficiently generous to respond to the appeals of the men representing that great country west of the Missouri River and allow the appropriation of \$30,000 to put these cases in proper shape.

[Here the hammer fell.]

Mr. CAREY. I move to amend by striking out the last word.

Mr. CANNON obtained the floor.

Mr. CANNON (to Mr. CAREY). How much time do you want?

Mr. CAREY. Not over five minutes.

Mr. CANNON. I will give you two minutes and a half of my time.

Mr. CAREY. Very well; I will take that and appeal to your generosity; perhaps you will be generous with time, if not with money.

Mr. Chairman, this is a season of depression west of the Mississippi River. The people on the plains are receiving very low prices for their grain and the products of their herds. That great army of pioneers which has moved across the continent from the Atlantic to the Pacific and which has made civilization possible on the prairies appeals to you to-day to put money enough in this bill to give them their titles. They have asked the men who represent them on this floor to assist them in this matter. When you have money for everything else, I ask you to be generous enough to give the Commissioner of the General Land Office a sufficient number of clerks to examine the cases of these men, and thus give them their honest titles as speedily as possible. You may shorten the time at least one year or eighteen months. Take the necessary time to investigate these cases, but allow a sufficient number of clerks to avoid every unnecessary delay. If there is not enough room in the building of the Interior Department for the clerks, a building should be provided elsewhere.

This is a reasonable amendment.

Mr. CANNON. Mr. Chairman, a single word in reply to the gentleman. I am as much in sympathy with the men living in the great West as he is. I have examined this subject, and I say that the recommendations of the Committee on Appropriations and the action of

Congress have been all along the line in favor of giving relief to those men. Why, sir, the gentleman from Iowa reported from the committee over which I have the honor to preside a bill making appropriation at the rate of \$100,000 a year—an increase of already liberal appropriations—for clerk-hire in your land offices, the offices of registers and receivers, and for special agents to go out and examine these contested cases and these surveys. We gave the money intelligently, where it was needed and where the necessities of the case were understood after investigation. Now gentlemen come in and seek to swell this allowance for clerk-hire, where, in my opinion, after investigation, it is not needed. Now I am ready for a vote.

Mr. DOCKERY. I understood the gentleman from Wyoming to say that a Commissioner of the General Land Office under the last administration had stated to him that it was the policy of that office, under Democratic control, to prevent the settlement of the great West. I desire to ask the gentleman—

Mr. CAREY. I want to say that I did not mention the Democratic party.

Mr. DOCKERY. Does the gentleman reaffirm that statement?

Mr. CAREY. Yes, I affirm what I said, not what he says.

I can not yield further.

Mr. DOCKERY. I want to deny in behalf of the Democratic party that any member of it, authorized to speak for it, has ever opposed the settlement of the great West. I have not understood, however, that the name of the gentleman from Wyoming was in any wise synonymous with the great West, or that he was, in fact, the great West.

Mr. DOCKERY. I desire the gentleman to answer the question that I propounded. I hope he will not evade it. He stated, as I understood him, that the Commissioner of the General Land Office under the last administration had said that the Democratic party—

Mr. CAREY. I did not say Democratic party.

Mr. DOCKERY. Was opposed to the settlement of the great West. Now, I ask the gentleman the name of that Commissioner.

Mr. CAREY. I will tell the gentleman the name if he wants to know.

Mr. DOCKERY. Very well; give us the name of the Commissioner.

Mr. CAREY. I will do so.

Mr. DOCKERY. That is just what I want.

Mr. CAREY. The name of the Commissioner was William Andrew Jackson Sparks. Have you heard of him? [Laughter.]

Mr. DOCKERY. I have.

Mr. SPRINGER. And he made no such statement.

Mr. DOCKERY. Of course I can not speak authoritatively for Mr. Sparks, but I do not believe that any proper interpretation of anything that he ever said would warrant the statement the gentleman from Wyoming has just made.

Mr. CAREY. I do not care whether the gentlemen believe it or not. He (Sparks) issued orders in violation of law in the State of Missouri. He closed the land offices to settlers. He suspended entries, both original and final.

Mr. WILLIAMS, of Illinois. I know Mr. Sparks very well, and I will take his word in denial of the statement in preference to any such assertion.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Wyoming.

The amendment was rejected.

The Clerk read as follows:

POST-OFFICE DEPARTMENT.

Office Postmaster-General: For compensation of the Postmaster-General, \$8,000; chief clerk of the Post-Office Department, \$2,500; chief post-office inspector, \$3,000; stenographer, \$1,800; stenographer, \$1,600; appointment clerk, \$1,800; one clerk of class 4; two clerks of class 3; one clerk of class 2; one clerk, at \$1,000; one messenger; one assistant messenger; one page, at \$360; in all \$28,000.020.

Mr. ENLOE. I move to strike out the first two lines. I make this motion for the purpose of calling the attention of the committee to a new rule which seems to obtain in the appointment of postmasters. I resisted the appointment of the postmaster at Jackson, Tenn., my home office, for two reasons which were distinctly assigned: first, because he was not the choice of either the Democrats or Republicans and, second, because he sought his appointment on forged indorsements which were gotten up by two negroes, both of whom were under indictments in the courts for crime. I made these charges before the Postmaster General, and was assured by him that no man who would resort to such practices could be or should be appointed.

I proved the charges by the testimony of leading Republicans of the city in which I live. That proof is on file in the Post-Office Department. I have a letter here from the acting chairman of the Republican party in that county in the last campaign, and letters from the chairman of the preceding Republican committee in that county, in support of the charges I made.

I want to say, Mr. Chairman, that after this proof had been filed and was not rebutted and no effort made to rebut it this man was appointed and confirmed.

The Postmaster-General telegraphed to me in reply to an inquiry as follows: "The case of Jackson went before the President yesterday and an appointment was made."



In the examination of the record in the case I find that the man who stands behind this appointment was a gentleman who distributed the \$30,000 of the campaign fund in my own State for the Republican party in the last campaign in order to corrupt the ballot of that State. I will not here comment further upon his interference in this matter; but I will refer to the interference of one of my colleagues on this floor. I refer to the gentleman from the Third district [Mr. EVANS]. I notified him in advance that I would, when we reached this part of the bill, refer to this post-office matter. I find that he indorses this man and recommended his appointment on the ground that "a little political discipline should be exercised in this section."

I thought I had reason to believe, as the gentleman knows, that he had been inadvertently and unwillingly placed in the attitude of recommending the appointment of a postmaster in my town, not because he was honest or competent or acceptable to the people there as a whole or to the members of his own political party, but because the people ought to be disciplined.

Now, Mr. Chairman, I say I had the right to think that this expression did not represent the judgment or the sentiment of the gentleman. Imagine my surprise when I found on file in the Senate committee-room, while this case was pending for confirmation, this letter, marked "personal" and not to go on file, addressed to Hon. John Wanamaker, Postmaster-General, dated February 17, 1890, in the following words:

WASHINGTON, D. C., February 17, 1890.

Hon. JOHN WANAMAKER,  
Postmaster-General:

I am in receipt of a letter, five pages closely written, from Judge T. C. Muse, of Jackson, Tenn., the leading white Republican of that place. His statements and recommendations should be respected. His conclusions are that W. M. Moss should be appointed postmaster at Jackson. I hope you will have it done tomorrow; and I think the action of the member of Congress from that district in the House during the past two weeks should (outside of the local ballot-box-stuffing there that sends him to Congress) estop his having any influence in the premises. In the interest of the Republican party and against Southern Democracy appoint Moss at once.

Respectfully,

H. CLAY EVANS.

I move to strike out the last word. I want to continue my remarks a few minutes.

Mr. CANNON. How much longer?

Mr. ENLOE. I think I can get through in about seven minutes; I will try to get through in about five minutes.

Mr. CANNON. Mr. Chairman, I ask that debate be closed in ten minutes, that the gentleman have five minutes, and that five minutes be given to his colleague to reply.

Mr. ENLOE. I want the gentleman to have as much time as I have.

Mr. CANNON. We want to finish this bill to-night.

Mr. SPRINGER. I ask that the committee now rise.

Mr. CANNON. I ask unanimous consent that this debate be closed in ten minutes.

A MEMBER. I object.

Mr. ENLOE. I think I will get through in about five or ten minutes.

Mr. CANNON. I move to close debate on this paragraph in ten minutes.

The motion was agreed to.

Mr. ENLOE. Now, Mr. Chairman, I say that I was surprised after the conversation between myself and the gentleman from the Third district to find that he had gone to the Post-Office Department, or that he had written a letter and sent it there in secret, in which he not only asked the Postmaster-General to come in with his sixty thousand office-holders to discipline and punish me for my conduct as a Representative upon this floor, but that he had made a gratuitous slander upon the people whom I represent here. He charged them in the letter with being ballot-box-stuffers, and did it secretly, marked his letter "personal." I am glad that this letter was not written by a native Tennessean, for it is the characteristic of the people of Tennessee, whether Democrat or Republican, that in political warfare they are at least open and fair, and they give every man a hearing and an opportunity to exercise the right of self-defense.

But more than that, Mr. Chairman, I want to say that this is a most vicious principle which the gentleman invokes, to propose to discipline the members upon this floor, whether Democrats or Republicans, through the exercise of the patronage of this Government for the manner in which they perform their duties here. When I found that he had written this letter I looked to see what particular crime I had committed, and I found that I had made a speech against trusts and monopolies and against the adoption of the present code of rules; and for that I am to be punished and my people disciplined by the appointment of a man who was not urged on account of his fitness, but because he was objectionable to the people, and because it was thought his appointment would be a punishment to them and to me.

When the gentleman makes an attack upon my people it ought to be known that there has never been any charge made by either Democrats or Republicans that there was any cloud upon my title to a seat on this floor and that there has never been a contest from my district for a seat in this House. If there had been a contestant from that district at this time, from the evidence we have witnessed, I think it would not

have required a very strong case for a contestant to get the seat I occupy. The gentleman seems to be recognized as the political boss in the distribution of the patronage of that State; and I congratulate the Administration on its selection, because I suppose the gentleman correctly represents the Administration idea of civil-service reform. Does it come with good grace from him to charge me or my constituency with stuffing ballot-boxes when one of the most prominent Republicans of the city in which he lives has charged through the public prints, and charged it squarely and openly, that the gentleman had caused the ballot-box of the Fifth ward of the city of Chattanooga to be stuffed to the extent, if I remember correctly, of about 350 votes? I say that charge has been made by Mr. Charlie Whiteside in the city of Chattanooga, that the gentleman stuffed the ballot-box, or had it done, in his contest with the late Hon. John R. Neal for a seat in the Fiftieth Congress. I do not say that these things are true, because I do not make assertions unless I have the proof. I do not desire to make a charge against any one without giving a chance of defense. I make the charge that the ballot-box was stuffed in his interest, and the gentleman can undertake so far as he likes to answer it, and he should free himself and his constituents of that charge before he talks about disciplining my people or circulates his secret slanders against them.

Mr. EVANS. Mr. Chairman, this bill seems to have offered an opportunity to air the dirty linen of several distinguished gentlemen. As to one of the charges I want to answer it as follows: The gentleman says that Charlie Whitesides made an open charge that I had stuffed the ballot-box. Charlie Whitesides did not do any such thing. It is false. [Applause on the Republican side.]

Mr. ENLOE. Did not Mr. Whitesides publish a card saying that the box had been stuffed and charge you and your party with doing it?

Mr. EVANS. Now, in answer to that I will state that Vernon Whitesides said he stuffed the ballot-box, and in public, and in the presence of one hundred gentlemen as respectable as you, he said that "any man that said CLAY EVANS had anything to do with it, directly or indirectly, or knew anything of it, was a liar." [Loud applause on the Republican side.]

Mr. ENLOE. I am glad that the gentleman is able to vindicate himself. Now let him vindicate his constituents, as he has attempted to vindicate himself.

Mr. EVANS. I hope this is not to be taken out of my time. I sat still when the gentleman was talking, and I do not want to be interrupted. The gentleman has brought up a witness to substantiate the statement he has made. Where is that witness to-day? My friend will not stand up and vindicate him, for he does not know him. He is now a fugitive from justice.

Mr. ENLOE. I do not know, but I have always understood, and it has been published, that it was one of your friends who stuffed the ballot-box.

Mr. EVANS. Now, the gentleman has said that I have secured the appointment of the postmaster in his town simply because the people of his town were to be disciplined. I say I recommended that man for postmaster; that I did it because he was recommended by the Tennessee member of the national committee; he was recommended by the chairman of the State executive committee; he was recommended by the defeated candidate for Congress in that district; he was recommended by the chairman of the executive committee of that county; he was recommended by the executive committee, and he was recommended by, I will say, five-sixths of the Republicans of that county.

Mr. ENLOE. It is not true that he was recommended by the Republicans of that county.

The CHAIRMAN. The gentleman from Tennessee will be in order.

Mr. EVANS. This case has been tried before the Postmaster-General for four months. The gentleman [Mr. ENLOE] brought charge after charge against the candidate and they were swept away like chaff before the wind. Then he went before the Senate committee and preferred charges, and the nominee was unanimously confirmed.

Mr. ENLOE. That is not true.

Mr. EVANS. I can show it.

Mr. SPINOLA. I hope they will all stick to the truth. [Laughter.]

Mr. EVANS. Truth is mighty and must prevail. Now what is the fact? The gentleman in question was a good Confederate soldier and he was a Democrat until six years ago.

Mr. ENLOE. Yes; up to two years ago.

Mr. EVANS. I took occasion to ask the gentleman [Mr. ENLOE] whether there were any charges against this man: was he dishonest, were his associations bad, was he a drunkard, was his character bad in any way? And the gentleman from Tennessee stood there and said that this man was "an Ishmaelite in politics." [Laughter on the Republican side.] He was "an Ishmaelite" to the extent that he abandoned the Democratic party by reason of its principles and its policy and its practices as carried out in that county, and he was man enough to come out and say so.

Now, the gentleman has severely criticised the Administration, and my very worthy colleague from the Sixth district of Tennessee said upon the floor here the other day that Democrats were not allowed to see the papers. Let me say to you, my worthy colleague, that so long



as we have a colleague who is ambitious to enroll his name upon the scroll of fame as a Judas, and who will so far forget himself as to go to the Postmaster-General and the Department and secure possession of political papers and take copies of them secretly, and send them to his papers—

Mr. ENLOE. That is not true, not one word of it. I denounce it here as a falsehood, and will so denounce it outside of this House. I have done nothing secretly.

The CHAIRMAN. The gentleman from Tennessee [Mr. EVANS] is entitled to proceed without interruption.

Mr. EVANS. And will have them published there, with articles denouncing the Administration and reflecting upon members of this House in the most unkind terms, it may be expected that he will be denied access to these political papers. [Applause on the Republican side.]

Mr. McCLAMMY. They have no right to have secrets there. We are entitled to all the information they have.

Mr. ENLOE. I am not denied access to them yet.

Mr. EVANS. Now, Mr. Chairman, I do not wish to take up the time of the House at any length, but the gentleman has referred to ballot-box-stuffing. It is not my purpose, sir, to malign the people of my State. It is not my intention to bring before this House, as has been done in the cases of other States, the frailties and rascalities of some few of our people who occasionally do stuff ballot-boxes, for, in that western district of Tennessee, there have been, I think, 112 indictments found during the last session of the court—

Mr. ENLOE. Will the gentleman permit a question?

Mr. EVANS. I did not interfere with the gentleman while he was speaking, but inasmuch as the gentleman wants questions propounded, I will ask him a question. Was it not published in the papers of Memphis, and has it ever been denied, that in one of the adjoining counties, the county of Haywood—

Mr. ENLOE. What has that got to do with my district?

Mr. EVANS. That in one of the adjoining counties, the county of Haywood, an order was issued upon the authorities of the county for \$1,300 to pay the fines and costs of the election officials who have been under indictment? Has not Fayette County court passed an order to pay all fines and costs incident to prosecutions in United States courts for election frauds? Court all Democrats.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOUK. I ask unanimous consent that my colleague [Mr. EVANS] be permitted to proceed for a few minutes.

Several MEMBERS. No, no.

The CHAIRMAN. The time fixed for debate upon this amendment has expired. The question is upon agreeing to the amendment of the gentleman from Tennessee [Mr. ENLOE] to strike out the first two lines.

Mr. SPRINGER. I move that the committee do now rise.

Mr. EVANS. In conclusion, Mr. Chairman, let me say— [Laughter.]

The CHAIRMAN. The time of the gentleman has expired.

A MEMBER. Give them ten minutes more, five minutes apiece. [Laughter.]

Mr. WILLIAMS, of Ohio. I ask for the regular order, Mr. Chairman.

Mr. BRECKINRIDGE, of Kentucky. I ask unanimous consent that the gentleman from Tennessee [Mr. EVANS] may have as much time as he desires.

Mr. CANNON. I object. I want to go on with this bill.

Mr. BRECKINRIDGE, of Kentucky. I ask unanimous consent—

The CHAIRMAN. The Chair will recognize nobody until order is restored. The gentleman from Kentucky [Mr. BRECKINRIDGE] is not in order. The regular order has been demanded by several gentlemen.

Mr. WILLIAMS, of Ohio. Let them take some other day.

The CHAIRMAN. The gentleman from Ohio is not in order.

Mr. WILLIAMS, of Ohio. I call for the regular order. [Laughter.]

The CHAIRMAN. The question is on the amendment of the gentleman from Tennessee.

Mr. SPRINGER. Pending that, I move that the committee do now rise.

Mr. CANNON. I hope not.

The CHAIRMAN. The gentleman [Mr. SPRINGER] is not recognized for the purpose of making that motion.

Mr. SPRINGER. But I have a right to be recognized.

The CHAIRMAN. The question is upon the amendment of the gentleman from Tennessee.

The question was taken; and the Chair declared that the ayes seemed to have it.

A division was called for.

Mr. SPRINGER. I move that the committee do now rise.

The CHAIRMAN. That motion is not in order pending a division.

Mr. SPRINGER. The division was not pending when I made the motion.

The CHAIRMAN. The gentleman will pardon the Chair, but nothing will be made by clamor in this case.

Mr. SPRINGER. No; and therefore I desire to be recognized in order. [Laughter.]

The CHAIRMAN. The Chair declared that the question was upon the motion of the gentleman from Tennessee and that the ayes seemed to have it. A division was demanded, and, pending the division, the gentleman from Illinois [Mr. SPRINGER] rose to move that the committee rise.

Mr. SPRINGER. No; I made the motion long before that. Before the question was submitted I moved that the committee rise, and the Chair stated that he did not recognize me to make that motion.

The CHAIRMAN. Because the regular order had been demanded, and the question had been put to the committee. The gentleman from Illinois [Mr. SPRINGER] will pardon the Chair if he takes his own recollection in preference to the gentleman's.

Mr. SPRINGER. The gentleman from Illinois will pardon his colleague, knowing that he will improve as he goes along. [Laughter.]

The CHAIRMAN. The question is on the amendment of the gentleman from Tennessee.

The amendment was rejected.

Mr. SPRINGER. Now I move that the committee rise.

The CHAIRMAN. The gentleman from Illinois [Mr. SPRINGER] moves that the committee do now rise.

Mr. CANNON. Will my colleague let me say—

The CHAIRMAN. This motion is not debatable.

Mr. CANNON. Will my colleague [Mr. SPRINGER], by unanimous consent, yield to me for a moment?

Mr. SPRINGER. I will yield to the gentleman.

Mr. CANNON. We are almost through with this bill now, and—

[Cries of "Oh, no!" "Oh, no!"]

Mr. CANNON. Well; I ask this side of the House to stay here and finish it.

The question was taken on the motion of Mr. SPRINGER; and the Chairman declared that the noes seemed to have it.

Mr. SPRINGER. I call for a division.

The question being taken on the motion of Mr. SPRINGER that the committee rise, there were on a division—ayes 49, noes 73.

Mr. SPRINGER. I demand tellers.

Tellers were ordered; and Mr. SPRINGER and Mr. CANNON were appointed.

The committee again divided; and the tellers reported—ayes 43, noes 64.

So the motion that the committee rise was not agreed to.

The Clerk was proceeding to read the next paragraph, when

Mr. BYNUM said: I move to strike out the last word.

Mr. CANNON. That is not in order.

The CHAIRMAN. The Chair thinks it is in order, but the question is not debatable. It will be decided by the Committee of the Whole without debate.

Mr. BYNUM. I move, then, to strike out the entire paragraph.

Mr. CANNON. That is not debatable.

The CHAIRMAN. It is not debatable.

Several MEMBERS. Why not?

The CHAIRMAN. Debate on this paragraph has been exhausted, by order of the committee.

Mr. SPRINGER. Then let the Clerk read the next paragraph.

The Clerk read as follows:

Office Second Assistant Postmaster-General: For Second Assistant Postmaster-General, \$4,000; chief clerk, \$2,000; chief of division of inspection, \$2,000; superintendent of railway adjustment, \$2,000; ten clerks of class 4; thirty-four clerks of class 3; eighteen clerks of class 2; one stenographer, \$1,600; eighteen clerks of class 1; nine clerks, at \$1,000 each; five clerks, at \$900 each; three assistant messengers; and two laborers; in all, \$147,780.

Mr. BYNUM. I move to amend by striking out the paragraph just read. Mr. Chairman, while we are getting along so pleasantly under the present efficient administration of the Post-Office Department, I desire to call attention to a few, just a few, matters of which I have some knowledge in the State of Indiana, matters which have taken place under this Administration.

In one of the northern counties, at a small post-office, the Republican postmaster during the last Administration was removed and a successor appointed. The commission from the Post-Office Department was sent to the appointee, but it was never delivered, although called for repeatedly. In about nine months after that time the Post-Office Department was notified that the commission had not arrived. Another commission was sent out, and it failing to be received after repeated inquiries at the office an inspector was sent out, the post-office was searched, and the commission was found pigeon-holed.

The Republican postmaster was indicted for withholding the mail; but his Democratic successor, feeling sorry for him, pleaded that he might not be prosecuted, and the prosecution was dismissed. As soon as the present Administration was inaugurated, I presume in the interest of reform, the Democratic postmaster was removed and the man who had withheld mail and been indicted for crime was reappointed and is now postmaster.

In another case a soldier who was recommended for the appointment, a woman who had spent a large sum of money and more than four years of her time in nursing soldiers during the war, and a professional gambler were applicants. This professional gambler had been convicted of gambling and the record of his conviction was filed in the



Post-Office Department. Out of those three applicants the Post-Office Department appointed the professional gambler and he is now discharging the duties of postmaster.

During the campaign the chairman of the Republican county committee at New Albany, Ind., was using the frank of Governor Hovey, then a member of this House, to frank German newspapers over the State. His mail was captured by a Democratic post-office inspector. The case was perfectly clear; but as soon as the present Administration came into power the case was dropped; the indictment was never returned, although the evidence was ample and uncontradicted; but the post-office inspector who had secured the evidence and presented it to the district attorney was summarily dismissed.

I call attention to only a few of these matters because I do not want to delay this bill. At some time during the session I shall take the opportunity to give to gentlemen on the other side a more lengthy chapter, illustrating the reforms that have been inaugurated under this Administration in the Post-Office Department.

Mr. KERR, of Pennsylvania. Please add a list of those under the last Administration.

Mr. CANNON. Mr. Chairman, I hope that gentlemen on this side of the House will not take part in this debate, but will stay here and finish this bill. I ask them to do so in the interest of the public business. No man can be expected to stand here in this House and answer a common scold.

Mr. BYNUM. These are matters of record.

The question being taken on the motion of Mr. BYNUM to strike out the paragraph, it was rejected.

The Clerk read as follows:

Office Third Assistant Postmaster-General: For Third Assistant Postmaster-General, \$4,000; chief clerk, \$2,000; chief of division of postage-stamps, \$2,250; one chief of finance division, who shall give bond in such amount as the Postmaster-General may determine for the faithful discharge of his duties, \$2,000; four clerks of class 4; sixteen clerks of class 3; twenty-one clerks of class 2; twenty-six clerks of class 1; seven clerks, at \$1,000 each; two female clerks, at \$900 each; three assistant messengers; six laborers; in all, \$118,570.

Mr. ENLOE. Mr. Chairman, I move to strike out the paragraph just read. I wish to add a word in reply to the remarks of my colleague. I did not say what I have said here in reference to him out of any personal ill-feeling toward him. I regret exceedingly that there is a member of the Tennessee delegation who would have made the reflection upon me and my constituents which was made by my colleague from the Third district and in the manner in which he made it. The reason I called attention to it was because I felt that I had been badly treated in this matter by the Postmaster-General; I felt that I had been badly treated by my colleague; that he had not dealt with me in this matter as he should have done.

I talked to him about the first offense of proposing to punish my people by putting on them a man who is repudiated almost unanimously by the white Republicans of the place as well as by the leading colored Republicans and by the business community. He disclaimed the sentiment attributed to him by the indorsement. I showed up the fraud in the home indorsement of the man and proved it by affidavits, by the letters of the acting chairman of the Republican county executive committee in the last campaign, and by the letters of the preceding chairman of that committee, as before stated. I proved it by numerous letters from reputable Republicans, and I thought I had the assurance of the Postmaster-General that he would select some other man out of the five or six Republican applicants for the post-office rather than this man, who had forced himself upon the people of that city by getting foreign indorsements and forged indorsements at home.

I will admit that the statement of the gentleman from Tennessee is true, that he had the indorsements of nearly all the prominent Republicans in the State. He had the best foreign indorsements I ever saw for a postmaster. But they were entirely too much. He went a little too far, for the indorsements were almost entirely outside of the delivery of that office. They were sufficient to have made a man minister to England, but too much for a postmaster, if any respect is paid by the Administration to the wishes of the people whom the post-office is designed to serve.

The gentleman alluded to the fact that I published certain papers, and wanted to know how I got access to them. I will tell you how I did it. I did not go in at the back door, but I went to the Post-Office Department and had them brought into the office of the chief clerk, sat down and made copies of them, saying that I wanted to use them to expose this fraud, and nobody interfered to object or prevent it. I got a copy of the gentleman's confidential letter in the Senate, when the nomination was pending for confirmation. I sat down and copied that, commented on it, and no objection was made. I betrayed nobody's confidence. These are official papers. I have a right as a Representative on this floor, and every man has a right as a Representative, to look to the papers in any case affecting the interests of his constituents. I would not respect any rule of secrecy if adopted under a Democratic Administration, and certainly I would not respect it if a Republican Administration sought to enforce it. But if such a rule is adopted and I am told that I can not look at the papers on file from my district, I will make the issue with the Department whether or not they have the right to make and enforce such a rule.

I do not think it is right. I do not think it is republican in principle or in accordance with our system of government that my colleague should appeal to this Government, to its high officials to exercise the appointing power to punish Representatives for their conduct on this floor or for any act done in a representative capacity. I think that a man who would indorse such a principle has not learned the first principles of republican government as we understand it in this country. It is the spirit of tyranny and oppression that actuates it; it is the spirit of monarchy that would crush out all the rights and the liberties of the people who dare to entertain opinions at variance with the ruling power.

If, Mr. Chairman, I wanted to go further I might call the attention of this body and the country to a great many indiscretions of which the Postmaster-General has been guilty, for I never yet have met with a man occupying an office so exalted who has exhibited so little sense of official propriety as the present incumbent of that office—a man who voluntarily interferes with Congress even in the selection of the site for a post-office in the city of Washington, who uses his official position to advertise his private business, and on all occasions shows that while he may have business sense and may be a good man in other respects—that I do not know anything about—he does not know anything of the proprieties of official life, and he has demonstrated it most forcibly. I am sorry to see my colleague from Tennessee following in his footsteps, and going beyond him in the disposition to intermeddle in other people's affairs.

Mr. HERMANN. Mr. Chairman, at this point in the consideration of this bill I feel it my duty from my seat in this body to invite the careful attention of the Post-Office Department, rather than to hope to obtain relief at this time through Congress, to the loud complaints from the people of the Pacific Northwest in regard to the inadequate mail facilities in that great and important section of our nation. There is at present a great wrong somewhere, and the wrong must be remedied. Whether this injustice arises from deficient appropriations to maintain the service, or from inefficient or inadequate clerical aid, or because of the indifference of subordinates in the service, I am not prepared to say. A careful examination, however, justifies me in expressing the opinion that it is a combination of all. I hold in my hand numerous communications from various portions of the country, all complaining of the scanty appropriations for the sufficient discharge of the postal service, but I shall content myself with merely submitting the following from the Board of Trade of the city of Portland, Oregon:

BOARD OF TRADE, PORTLAND, OREGON, April 14, 1890.

DEAR SIR: At a meeting of the board held on the 14th, the inclosed report on inefficient postal facilities was submitted, and the secretary instructed to forward copies of the same to our Senators and Representative, requesting them to look into the matter and take steps to have the service increased sufficiently to insure proper and expeditious handling of the mails.

Yours, very truly,

T. F. OSBORN, Secretary.

HON. BINGER HERMANN,  
House of Representatives, Washington, D. C.

PORTLAND, OREGON, April 4, 1890.

Your committee, appointed to inquire into the inadequate postal facilities in this city and "instructed to prepare a statement of affairs in the post-office here and submit at the next meeting of the board a report in the shape of a demand that we be furnished with proper facilities," beg leave to submit the following:

Upon thorough investigation we find that the postal service in this and between this and neighboring cities is far from being efficient or what the people, and especially the business community, have a right to expect and demand it to be. Letters to and from Astoria, a distance of about 100 miles, with daily steam-boat communication, are frequently two and three days on the way before being delivered to their address; to and from Tacoma, about 145 miles, two and three days; to and from Seattle, about the same time; Port Townsend, two to four days; and to and from Victoria, B. C., from four days to a week. This state of affairs is particularly aggravating when passengers go from here to Astoria, Tacoma, and Seattle in less than twelve hours, to Port Townsend in less than one day, and to Victoria in one day. City letters when mailed here one day hardly ever reach the parties to whom they are addressed until the following afternoon. Letters plainly addressed are frequently put in wrong lock-boxes and are also often delivered at wrong houses, even when the parties are well known.

Owing to the postmaster having been so very busy, we have been unable to obtain from him details of the causes of such delinquencies beyond the general statement that his force, the amount allowed for clerk-hire, and the post-office space are totally inadequate for the proper handling of the large amount of mail that passes through his office. Portland is the distributing center for an immense scope of country and handles more mail, proportionately to her population, than many cities of three times her size. During the year 1889 there passed through the Portland office—

	Pieces.
Letters .....	11, 072, 750
Postal cards .....	3, 843, 585
Circulars .....	1, 543, 400
Printed matter .....	3, 149, 415
Local distribution (estimated) .....	20, 000, 000
<b>Total .....</b>	<b>39, 609, 150</b>

Your committee does not attach any blame to Mr. C. W. Roby, the gentleman who has been postmaster of this city during the last four years and who has recently been superseded in office, for these shortcomings, as he has always been found very attentive to his duties, courteous to the public, and exceedingly anxious and solicitous to prevent and rectify mistakes; but we do blame the Post-Office Department for the parsimonious policy pursued towards this city and section of country. The rank of a post-office is determined by its gross receipts; and if we select all whose gross receipts range between \$100,000 and \$125,000 we find that the Portland office has by far the best record, as shown by



the following table, the data for which were taken from the last annual report of the Postmaster-General:

Office.	Gross receipts.	Allowance for clerk-hire.	Allowance for free-delivery service.	Total expenses.	Net revenue to Government.	Per cent. of expense to gross receipts.
Portland, Oregon...	\$107,270.03	\$14,825.41	\$13,198.64	\$31,927.41	\$75,342.62	30
Los Angeles, Cal...	107,530.09	32,184.44	27,121.71	65,110.85	42,419.24	39
Portland, Me.....	105,919.33	20,815.50	16,527.55	41,196.08	64,723.25	39
Des Moines, Iowa..	111,052.98	15,148.00	22,435.26	43,188.00	67,914.00	39
Troy, N. Y.....	100,631.00	16,943.00	29,401.64	54,493.00	46,137.00	35
Nashville, Tenn...	121,848.00	19,514.35	19,622.00	43,245.22	78,603.00	35

Portland does not only return the largest revenue to the Government (gross receipts considered), but its per cent. of expense is the lowest. Take Los Angeles, Cal., and Portland, Oregon, two Pacific coast offices, with but a few dollars difference in their gross receipts, is there any good reason why Los Angeles should be allowed \$32,184.44 for clerk-hire, while Portland gets but \$14,825.41, or why Los Angeles should be allowed to use up 61 per cent. of her gross receipts for operating expenses, while Portland is allowed but 30 per cent. If we make comparisons with other offices, the same result is reached, though perhaps less marked. It looks as if there has been a systematic discrimination against Portland, as the attention of the Department has been often called to this matter and our postmaster has thoroughly done his duty in trying to secure a proportionate and adequate allowance for his office.

The following, taken from "A history of the Portland post-office," published by Postmaster Roby a few months ago, is to the point:

"Within the past four years we have seen the office increase its net income to the Government 62 per cent., but during the same period the increase in the allowance for clerk-hire for the office has been but little more than 19 per cent. We have not asked for nor expected any special consideration, but we had a right to expect that an office which stands among the first in returning profits to the Government would meet with just and fair treatment. At no time during the past three years have we had a proper allowance for clerical help and there has certainly been no lack of effort on my part to secure it.

"Frequent and full representations of our needs have been made and my applications have been indorsed and urged by the Department's own inspectors, as well as by our Representatives in Congress, but all to little purpose. We were granted a part of what we asked for last year, but not a sufficient allowance. The trouble seems to lie in the fact that the making of these allowances is left to subordinates at the Department, who often assume to know more of the needs and requirements of the different post-offices of the country than postmasters and inspectors who are on the ground and are in a position to know the needs of the office."

In his report for 1882 Postmaster-General Howe says:  
 "These large sums are distributed among the different post-offices entitled thereto by a series of orders allotting so much to one and so much to another. In theory these orders are made by the First Assistant Postmaster-General; in practice they are made by a fourth-class clerk in the office of the First Assistant."

Postmaster-General Vilas in his report for 1887 says:  
 "This large and increasing expenditure is turned over to the Department to be disbursed nominally at the will of the head of it, practically by the clerks in the division of salaries and allowances."

Mr. Roby adds:  
 "It seems there has never been a rule or principle fixing a system for the distribution of this fund; hence it is left to the tender mercies of irresponsible subordinates. To this unhappy arrangement, or lack of arrangement, superadd overweening conceit in the one assigned to do this work, and you have a deplorable condition. The knowledge displayed by this clerk of late is truly remarkable. Sitting in his office at Washington he knows the details of work at any post-office better than the postmaster. Not only this, but better than any postmaster can he assign the duties and salaries of the clerks therein, and the fact that an office is 3,000 miles away, in a country he has never visited, is no impediment to his unerring judgment. Why this anomalous condition of things is allowed to continue it is hard to divine, but that much of our embarrassment is due to it there can be no question."

Your committee believes that our interests are too large and important to be trifled with in the manner above described, and would respectfully recommend that our delegation in Congress be requested to call the attention of the Postmaster-General or the First Assistant Postmaster-General to the urgent demands of our post-office for an immediate increase in its clerical force.

We are assured that the following additions are the very least that should be considered in supplying the present and pressing needs of the office: One additional money-order clerk, one additional registry clerk, one additional mailing clerk, one additional stamping and distributing clerk, six additional letter-carriers, and additional help should also be allowed the postmaster in taking care of the great volume of deposits received at the beginning of each quarter.

Another reason why the service is not as efficient as it ought to be is found in the lack of room for post-office purposes. C. W. Roby, in his history of the Portland post-office, says:

"Another drawback to the work of this post-office is the lack of room. There have been added the rooms formerly occupied by the internal-revenue department, but there is now available only half the room needed for mailing purposes. The office was arranged at first to accommodate a population of 12,000 to 15,000 people. With four times that number at present and a probability that the present population will double in a few years, the need of more room is evident. Portland has long since outgrown its babyhood and has now assumed metropolitan proportions. The gross receipts of its post-office have reached and passed \$100,000 per annum, and during the next year will likely reach \$150,000. The present Federal building, as arranged, offers no facilities for a large post-office, and nothing short of a radical remodeling of it can give anything approaching a convenient arrangement; and even with the whole of the first floor assigned for post-office purposes, there would not be sufficient floor space."

Your committee would respectfully suggest that copies of this report be sent to our Senators and Representative in Congress with the request that they will give these matters their earnest and immediate consideration and attention. All of which is respectfully submitted.

GEORGE TAYLOR,  
 WM. KAPUS,  
 R. P. EARHART,  
 Committee.

OFFICERS AND MEMBERS OF THE CHAMBER OF COMMERCE,  
 Portland, Oregon.

The foregoing is a true copy of the committee's report.  
 [SEAL.] F. F. OSBORN, Secretary.

There are ten superintendents of divisions in the nation, and of these but one is assigned to the Pacific. Of eighty-four inspectors only seven are assigned to all the country west of the Rocky Mountains, embracing an area equal to one-third of the entire Union, excluding Alaska. But this narrow, illiberal, and cheese-paring policy is not alone confined to the Pacific coast. It is seen in other portions of the nation.

The chief post-office inspector, who should be the most proper judge as to the assistance required in his immense service, recommended an increase of existing appropriation of \$100,000. The Postmaster-General applied his cheese-parer, and arbitrarily reduced this estimate to \$50,000. Let us cease our complaints against the subordinates in the Post-Office Department. They are anxious to comply with the public demand. They are, however, confronted with deficiencies in appropriations.

The chief post-office inspector, in his report to the Postmaster-General, for the past year, says:

I desire to call your attention to the fact that an increase in the annual appropriation for mail depredations and post-office inspectors should be made. This is an absolute necessity to the end that the number of inspectors necessary to the proper performance of the increased work of this service may be employed and more satisfactory results obtained, which, with the limited number of inspectors now on the force, is impossible.

While in the present year the work will have increased 92 per cent. over the last year, yet the average number of inspectors has remained for four years nearly the same.

There is a radical wrong in the whole system. The economy proposed is not in the interest of the service. It is also based on a wrong estimate. There is in addition an unjust discrimination as to the Pacific coast.

The railway mail service is likewise denied that liberal allowance so essential to a prompt and active performance of the duties. For the entire Pacific coast there is but one superintendent, and it is expected that he can overlook and vigilantly supervise the railway mail service over an extended area equaling one-third of the Republic! In fact the eighth division alone embraces California, Nevada, Oregon, Washington, Idaho, Utah, Arizona, and Alaska!

Can efficiency be expected from such a system? Can subordinates serving over such an immense area be given that careful surveillance so necessary in any successful business management? We all know that they can not. We have a sufficient proof of this in the numerous complaints which reach us of the inefficient service. A reform is called for, and nothing will so effectually remedy the existing difficulties as an increase in the present force. It is now grossly inadequate to the public needs. We are told that retrenchment is necessary. There is already an excess of economy. The prime object of parties in power seems to be rather to save for the Treasury at the expense of the public convenience, and often, I fear, to make party capital rather than public prosperity. An economy which leads to errors and delays and injuries is no economy at all. It is waste. This policy is neither commendable to a party nor is it just to the people whose interests are involved. Let us not be deceived in this. The people can discriminate, and while they favor an economical administration of the Government, they despise and condemn an economy which means in the end only waste, extravagance, and delay, and a retrogression of the public interests. The heads of the Departments, being invariably from the East, do not comprehend the wonderful progress and increasing population of the thrifty West. Their faces seem to be turned rather to the past than to the future. They do not seem to realize the expansion of the public business in the West.

They prefer to move upon the theory that if the present system was good enough for the past it should also be good enough for the future. This was the policy of the last administration, which discontinued and curtailed the service on fifty-eight mail-routes in my own State. It wanted to show a reduction in public expenditures. It met an overwhelming rebuke from the West. The Republican Administration should not imitate the crawfish and snail pace of the past. It is a progressive party, and progress is expected of it. The time has come for a forward movement. This country is growing, and parties should not forget it. The administrative force of ten years ago is insufficient now. The spirit of the times imperatively requires that we meet the present fully. The progressive genius of our country will take nothing less. A Postmaster-General can not by a wave of the hand postpone or delay a just demand of the public. Their complaints must be heard. No autocratic bureau will ever be tolerated which will insist upon its own economic theory in the face of inadequate and a resulting inefficient public service. Why deny these demands?

The chief post-office inspector writes me as follows:

There are now sixty-seven active field inspectors, exclusive of the division inspectors, and exclusive of four free-delivery inspectors.

At a recent conference of the division inspectors of the United States, held at the office of the chief inspector, in October, 1889, after a full consideration of the subject, taking into consideration all things pertinent thereto, it was determined that, on a basis of sixty-seven inspectors in the field (exclusive of division inspectors), there should be assigned to the Boston division, 4; Chattanooga division, 7; Chicago division, 13; Cincinnati division, 5; Denver division, 4; New York division, 4; Philadelphia division, 4; San Francisco division, 6; St. Louis division, 13; Washington division, 6. There are assigned to those divisions as follows: Boston, 3; Chattanooga, 7; Chicago, 11; Cincinnati, 7; Denver, 4; New York, 5; Philadelphia, 5; San Francisco, 6; Washington, 9.

E. G. RATHBONE,  
 Chief Post-Office Inspector.



There is surely no part of the public service which comes so directly home and affects so intimately the affairs of the people as that of the postal service. The rich and the poor are alike interested, and alike inconvenienced.

Cut off any branch of it and more complaint will be heard and more actual injury will result than a similar retrenchment in any other Department. The banker in Wall street and the home-seeker in the remote West alike enjoy the postal benefits and will suffer from its impairment. The poor settler on the frontier has an equal right to enjoy the beneficent privileges of this service with the millionaires of Fifth avenue.

We represent to the "powers that be" the condition of our crowded post-offices, with mail-sacks reaching to the ceilings; we describe the long lines of impatiently waiting patrons who are delayed because of the meager force employed at the offices of our large cities, of the overworked clerks in the railway mail service, of the slow and imperfect service between the larger cities, and now ask that a Republican Administration will take notice of these crying needs of the country, especially of the Pacific coast people, by increasing the clerical force, and, more than all, by demanding that those who are the inspectors of the Department, and those who are the chief clerks and superintendents of the railway mail service, shall travel over their districts and investigate and inspect and inquire and see to it that those upon whom the active duties are imposed do perform their duties carefully not negligently, promptly not dilatorily, and with courtesy to the country. We ask that these inspectors of the service rely less on their subordinates and more on themselves, and that they be required to leave their offices frequently, and then attentively travel over their fields and find out for themselves the derelictions in the service and promptly remedy or remove the evils.

It is excessively annoying, to say the least, when often we must wait, as I have done, after frequent appeals, for an entire month for an inspector at places where gross irregularities exist. If these fields are too large and the duties too burdensome, as on the Pacific coast, for any one person or a few to overlook, then in common sense why is the area not reduced and the superintendents increased? Good business sense loudly counsels such a move. Congress looks to the Department for advice and for suggestions in these matters, and we are looking now, and I hope we shall not look in vain, for some recommendation for more superintendents as well as inspectors on the Pacific Northwest. It may not be known, but it is a fact, that Washington is now a State in the Union; so is Montana; and so will Idaho soon be. Then why is it that this entire area, with California, Oregon, Nevada, Arizona, and Alaska, should all be under one superintendent? Let us have some reform in this matter and let us have it soon.

When Benjamin Franklin was Postmaster-General he had seventy-five post-offices to oversee. Now there are in our nation fifty-nine thousand. Then there were but a few persons engaged in the service, while now there are 151,000 employes, and the Postmaster-General truthfully says that—

The country grows so fast that the Post-Office Department unconsciously has lost step and fallen behind in the steady march of quickening enterprise.

Take the railway mail service as an illustration. Here are 5,000 men employed. There are 150,381.50 miles of railways upon which mail service is performed. There were 6,602 miles added last year. The service on inland steam-boat lines aggregates 5,543.78 miles. Experienced clerks are employed, but they are overworked and underpaid. Still the increase of work goes on and the necessity for rapidity and punctuality becomes greater year after year. Only recently a shortening of schedule time has been tried between San Francisco and New York on the transcontinental route, and now the mails come through in one hundred and eight hours and forty-five minutes, an advance of one day over the previous time. Everywhere the demand is for more expeditious service, and everywhere the proof becomes more convincing that the clerical force and the appropriations therefor should be correspondingly increased. And everywhere the people insist that a broad-minded, public-spirited, intelligent, and generous policy shall govern in the postal service of the country, and this demand on their part the people will expect that their Representatives in Congress shall heed, and see to it that such legislation shall be enacted as will maintain not only adequate postal facilities, but will provide such necessary and liberal allowances as will anticipate the continuous enlargement of the service.

I withdraw the amendment.

The Clerk read as follows:

Dead-Letter Office: For superintendent of dead-letter office, \$2,500; one clerk of class 4, who shall be chief clerk; one clerk of class 4; three clerks of class 3; eleven clerks of class 2; twenty-four clerks of class 1, including eight female clerks; four clerks, at \$1,000 each; fifty-five clerks, at \$900 each; six female clerks, at \$720 each; one assistant messenger; two laborers; four female laborers, at \$480 each; in all, \$116,880.

Mr. SPRINGER. Mr. Chairman, I move to strike out the last word.

I made a motion a few moments ago that the committee rise, for the reason that I did not desire to have the bill concluded to-night, but I hoped that on Monday, when we had become more calm and could secure a more deliberate consideration of the bill, I thought at least after gentlemen had gotten the better of the little excitement of the debate to-day, some of which appeared to be just a little unparliamentary,

that I would myself offer a few suggestions in regard to the manner in which the post-office has been administered by the present head of the Department and his assistants. I do not intend to delay the matter or prevent gentlemen from proceeding with the consideration of the bill, but it occurred to me that if gentlemen on the other side would allow the committee to rise at this time we might finish this bill on Monday.

Mr. CANNON. That is District day.

Mr. SPRINGER. It will not take long.

Mr. CANNON. It will not take long this evening if gentlemen will stop talking.

Mr. SPRINGER. It will take but a short time on Monday, and gentlemen may then submit the remarks they may desire to make in regard to the other portions of the bill. We can not give proper consideration to it without debate. The time is getting late, and there are some twelve or fifteen more pages which have not yet been read. I hope the gentleman will not force me to make the remarks that I desire to make on the bill to-night.

Mr. BUTTERWORTH. My friend has no remarks that will not keep, I am sure.

Mr. SPRINGER. I know the gentleman is very desirous of hearing me, but I prefer to proceed on Monday. [Laughter.]

Mr. CANNON. Go on now.

Mr. SPRINGER. Therefore, unless gentlemen on the other side of the House will move that the committee rise—and I will yield them an opportunity to do so in my time—I pause for an answer.

Mr. BUTTERWORTH. Proceed with your remarks. [Laughter.]

Mr. SPRINGER. I say if they will not do so I will withdraw the motion.

Mr. WASHINGTON. I reserve the point of order upon this section.

The CHAIRMAN. The Chair will recognize the gentleman to raise the point of order on the completion of the reading of the paragraph. The Clerk read as follows:

#### DEPARTMENT OF JUSTICE.

Office of the Attorney-General: For compensation of the Attorney-General, \$8,000; Solicitor-General, \$7,000; four Assistant Attorneys-General, \$5,000 each; one Assistant Attorney-General for the Department of Agriculture, \$4,000; one Assistant Attorney-General of the Post-Office Department, \$4,000; Solicitor of Internal Revenue, \$4,500; examiner of claims, \$3,500; two assistant attorneys, at \$3,000 each; three assistant attorneys, at \$2,500 each; one assistant attorney, at \$2,000; law clerk and examiner of titles, \$2,700; chief clerk and *ex officio* superintendent of the building, \$2,200; stenographic clerk, \$1,800; three stenographic clerks, at \$1,600 each; two law clerks, at \$2,000 each; five clerks of class 4; additional for disbursing clerk and clerk in charge of pardons, \$200 each; three clerks of class 3; three clerks of class 2; six clerks of class 1; one telegraph operator and stenographer, at \$1,200; seven copyists; one messenger; five assistant messengers; four laborers; three watchmen; one engineer, \$1,200; two conductors of the elevator, at \$720 each; seven charwomen; superintendent of building, \$250; and three firemen; in all, \$131,070.

Mr. WASHINGTON. I raise the point of order against line 24, page 99, against that line which gives four Assistant Attorneys-General. The present law only provides for two. This is an increase which existing law does not warrant. In line 25 also I find an Assistant Attorney-General for the Agricultural Department. In support of the point of order I desire to say that there is nothing in the law authorizing an Assistant Attorney-General for the Agricultural Department, and I can not see for my life what use there would be for such an officer.

Mr. BUTTERWORTH. We plead guilty and the point is well taken.

Mr. WASHINGTON. I can not see any use for an Assistant Attorney-General of the Agricultural Department, unless it is to decide election cases prior to the decision of this House, as I understand they did in the case of the gentleman from West Virginia in the matter of his quota of seeds, as they did not credit them to him, but credited them to the man who eventually succeeded him; therefore I move to strike it out.

The CHAIRMAN. The point of order is sustained.

Mr. BRECKINRIDGE, of Kentucky. How much is cut out by that point of order?

The CHAIRMAN. One Assistant Attorney-General and an Assistant Attorney-General for the Agricultural Department.

The Clerk read as follows:

To pay the salaries of the United States judges retired under section 714 of the Revised Statutes, so much as may be necessary for the fiscal year ending June 30, 1891, is hereby appropriated.

Mr. BRECKINRIDGE, of Kentucky. I move to strike out the last word simply to ask a question of the gentleman in charge of the bill. Has the gentleman from Ohio any information exactly as to how many judges are retired, so that he can state? They come under section 740 of the Revised Statutes.

Mr. BUTTERWORTH. I do not know.

Mr. BRECKINRIDGE, of Kentucky. Are there any retired judges except Associate Justice Strong?

Mr. BUTTERWORTH. It can only be paid when they are retired, so that there can be no mistake about the appropriation.

Mr. BRECKINRIDGE, of Kentucky. Is there any United States judge retired except Associate Justice Strong?

Mr. BUTTERWORTH. I do not know that there is.

Mr. PETERS. There are several judges of the subordinate courts.

Mr. BUTTERWORTH. There are several eligible and we have hopes of a few.



Mr. BRECKINRIDGE, of Kentucky. I take it that those who are eligible for retirement, from what I know of them, do not want to retire, but desire to remain on the active-list.

The Clerk read as follows:

For salaries of the chief-justice of the supreme court of the District of Columbia and the five associate judges, \$24,500.

Mr. McCLAMMY moved to strike out the paragraph last read.

[Mr. McCLAMMY withholds his remarks for revision. See appendix.]

The motion of Mr. McCLAMMY was rejected.

The Clerk read as follows:

SEC. 2. That the pay of assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this act, unless otherwise specially stated, shall be as follows: For assistant messengers, firemen, and watchmen, at the rate of \$720 per annum each; for laborers, at the rate of \$660 per annum each, and for charwomen, at the rate of \$240 per annum each.

Mr. ATKINSON, of Pennsylvania. I move to strike out the word "watchmen," in line 19, and insert at the end of the paragraph "eight watchmen, \$840 per annum each."

Mr. KERR, of Iowa. I raise the point of order on that.

The CHAIRMAN. Are these salaries fixed by law?

Mr. ATKINSON, of Pennsylvania. The salaries, as I understand, are all fixed by statute; but I am not sufficiently familiar with the statute to answer that question; but I call attention—

The CHAIRMAN. That question must be settled first one way or the other, and the gentleman should speak to the question of order.

Mr. ATKINSON, of Pennsylvania. Then I make this point, Mr. Chairman, that if these salaries are fixed by statute there is no need for such a provision in this bill. I am addressing myself to the point of order.

The CHAIRMAN. The Chair is advised that the statute provides that watchmen shall receive \$720. That is a provision of the Revised Statutes. The point of order is sustained.

Mr. CONNELL. I desire to offer the following amendment to this section: After the word "each," in the twenty-second line, in section 2, at page 105, insert: "The wages of day laborers to be not less than \$2 per day of eight hours' work."

Mr. BREWER. I make the point of order on that that it changes existing law.

Mr. CONNELL. I submit, Mr. Chairman, that the point of order is not well taken. This amendment does not change existing law.

The CHAIRMAN. If it makes law where there is no existing law it is the same thing.

Mr. SPRINGER. I raise the question of order that this amendment has not been read before the House, and we can not tell what it is until it shall have been read from the Clerk's desk, nor can it be acted upon.

Mr. BUTTERWORTH. It was read by the gentleman himself.

Mr. SPRINGER. He is too far off for us to have heard what it was.

The amendment was read from the Clerk's desk.

The CHAIRMAN. Against the amendment proposed by the gentleman from Nebraska the point of order is made that it changes existing law, in that it makes law that has not heretofore existed.

Mr. CONNELL. I submit that it does not; that it merely relates to the distribution of the funds appropriated by this bill and prescribes that these laborers in the employ of the Government shall receive at least the sum of \$2 a day for eight hours' work.

So far as the law is concerned, as it may relate to the number of hours of work daily, this does not in any manner conflict with the existing law.

The CHAIRMAN. But as to the compensation, what does the gentleman say about that?

Mr. CONNELL. There is no law upon that subject at the present time.

The CHAIRMAN. Then if this should be enacted it would make a law, would it not?

Mr. CONNELL. No, sir; it would merely relate to the distribution of the fund here appropriated.

The CHAIRMAN. It would provide that each of these laborers should receive \$2 a day. The Chair is clear upon this question, and the point of order is sustained.

Mr. KERR, of Iowa. Mr. Chairman, I desire to offer the amendment which I send to the desk, to come in at the close of section 2, page 10.

The amendment was read, as follows:

Provided, That no part of the money hereby appropriated shall be paid to any employe who, in the opinion of the chief of the division in which he is employed, is incompetent and inefficient for the work in which he is engaged, for more than one month after his inefficiency or incompetency is ascertained.

Mr. BUTTERWORTH. Upon that I make the point of order.

Mr. KERR, of Iowa. Mr. Chairman, this is not new legislation. It is only a direction. It is not making a law. It is simply making a limitation upon the payment of this money, stating the condition upon which it shall be disbursed. I think the same point of order was made against an amendment to an appropriation bill in the last Congress and was overruled.

The CHAIRMAN. The Chair thinks the point of order is well taken.

Mr. CLEMENTS. Mr. Chairman, I desire to offer an amendment which does make a little law, but to which I do not think there will be any objection.

The amendment was read, as follows:

Add to section 2 the following:

"Provided, That hereafter it shall be the duty of the heads of the several Executive Departments of the Government to report to Congress each year, in the annual estimates, the number of employes in each bureau and office, and the salaries of each, who are below a fair standard of efficiency."

The amendment was agreed to.

The Clerk read as follows:

SEC. 3. That all acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Mr. BUTTERWORTH. I move that the committee now rise and report this bill to the House with the recommendation that it do pass.

Mr. SPRINGER. Mr. Chairman, I rise to a question of order. The gentleman from Ohio [Mr. BUTTERWORTH] made the point of order upon the amendment of the gentleman from Nebraska [Mr. CONNELL] in regard to the eight-hour law, that it was contrary to existing law and therefore out of order.

The CHAIRMAN. The Chair will correct the gentleman. The amendment of the gentleman from Nebraska was broader than it is stated by the gentleman from Illinois. It provided limitation as to the rate of wages as well as for the number of hours of daily labor.

Mr. PETERS. That question was decided some time ago.

Mr. SPRINGER. But it was decided under a misapprehension of what the law is. That amendment did not change existing law.

Mr. PETERS. It is too late to raise that question now.

Mr. SPRINGER. I desire to call the attention of the Chair to the fact that that amendment of the gentleman from Nebraska was in accordance with existing law.

Several MEMBERS. Regular order.

Mr. SPRINGER. Will the Chair allow me to have the statute read?

The CHAIRMAN. There is no question pending before the committee.

Mr. BRECKINRIDGE, of Kentucky. Mr. Chairman, I rise to move to strike out the third section.

If there is no legislation in this bill, there are no "acts or parts of acts" which are inconsistent with it. Therefore, if the bill be in accordance with the provision of the rule, this third section is a wholly unnecessary provision in the bill.

Mr. PETERS. But in fact there is some legislation in the bill, which went through by unanimous consent.

Mr. BRECKINRIDGE, of Kentucky. I simply desire to call attention to this section because it is in that simple and exceedingly pleasant disguise that all the legislation which may have crept into this bill is to be made effective.

Mr. CANNON. Precisely.

Mr. BRECKINRIDGE, of Kentucky. Precisely, as the gentleman says, and therefore I think we ought not to adopt it without knowing that indirectly it may repeal a good many acts and parts of acts which we would not desire to repeal if we knew that we were doing it.

Mr. BUTTERWORTH. I move that the committee do now rise.

Mr. BRECKINRIDGE, of Kentucky. Mr. Chairman, the motion I desired to submit was to strike out the third section.

The CHAIRMAN. The Chair will entertain the motion if the gentleman desires to make it.

Mr. BRECKINRIDGE, of Kentucky. Will not the gentleman in charge of the bill accept the amendment? [Laughter.]

Mr. BUTTERWORTH. Oh, no.

Mr. BRECKINRIDGE, of Kentucky. Then I will withdraw it.

The question being taken on the motion of Mr. BUTTERWORTH,

The CHAIRMAN said: The ayes seem to have it.

Mr. BYNUM. I call for a division.

The question being again taken, there were—ayes 77, noes 3.

Mr. BYNUM. I raise the question of a quorum. This is a motion, as I understand, to rise and report the bill favorably to the House.

The CHAIRMAN. Does the gentleman make the point that no quorum is present?

Mr. BYNUM. I do.

The CHAIRMAN (having counted the members present). One hundred and ten gentlemen are present. On this question the ayes are 77, the noes 3. The ayes have it; and the committee determines to rise and report the bill to the House.

Mr. BUTTERWORTH obtained the floor and said: I yield for a moment to my colleague [Mr. GROSVENOR].

Mr. GROSVENOR. I ask unanimous consent to print in the RECORD some remarks on the paragraph beginning on page 81, relating to expenditures for special examiners in the Pension Office. I was in the Chair at the time that item was passed or I should have asked leave then.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio? The Chair hears none.

The committee rose; and Mr. BURROWS having taken the chair as Speaker *pro tempore*, Mr. PAYSON reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. 9066) making appropriations for the legislative, executive,



and judicial expenses of the Government for the year ending June 30, 1891, and for other purposes, had directed him to report the same back with sundry amendments and with the recommendation that the bill be passed as amended.

Mr. BUTTERWORTH. I move the previous question upon the bill and amendments.

The SPEAKER *pro tempore* (having put the question on the motion of Mr. BUTTERWORTH) said: The ayes seem to have it.

Mr. BYNUM. Division.

The SPEAKER *pro tempore* proceeded to put the question again on the call for the previous question.

Mr. BUTTERWORTH (during the count). I wish to say that if our friends on the other side will agree that the previous question be considered as ordered we will now adjourn.

Mr. HOLMAN. All right.

The SPEAKER *pro tempore*. On the motion to order the previous question on the bill and amendments the ayes are 84, the noes 3.

Mr. BYNUM. I make the point that no quorum is present.

Mr. CANNON. I ask the gentleman if he will not agree that the previous question be considered as ordered, so that this bill may go over as unfinished business to come up on Monday morning? If that is agreed to, we can then, according to the suggestion of the gentleman from Ohio, adjourn.

Mr. SPRINGER. This bill being privileged, you can call it up on Monday at any rate.

Mr. CANNON. Well, Monday is District day.

The SPEAKER *pro tempore*. Does the gentleman from Indiana [Mr. BYNUM] withdraw his point.

Mr. BYNUM. "The gentleman" has not said so.

Mr. CANNON. "The gentleman" is mad. [Laughter.]

Mr. BUTTERWORTH. Then, Mr. Speaker, in order to see whether there is a quorum present, I will move a call of the House.

The motion of Mr. BUTTERWORTH was agreed to.

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

Abbott,	Crain,	La Follette,	Rogers,
Alderson,	Culberson, Tex.	Laidlaw,	Rowell,
Allen, Mich.	Cutcheon,	Lane,	Rowland,
Allen, Miss.	Dalzell,	Lanham,	Rusk,
Anderson, Kans.	Dargan,	Lansing,	Sayers,
Anderson, Miss.	Darlington,	Lawler,	Scranton,
Andrew,	Davidson,	Lee,	Scull,
Atkinson, W. Va.	De Haven,	Lester, Va.	Seney,
Banks,	De Lano,	Magner,	Shively,
Barnes,	Dibble,	Maish,	Skinner,
Bartine,	Dingley,	Mansur,	Smith, W. Va.
Barwig,	Dolliver,	Mason,	Smyser,
Bayne,	Dunphy,	McCarthy,	Snyder,
Beckwith,	Edmunds,	McClellan,	Stahlnecker,
Belden,	Elliott,	McComas,	Stephenson,
Bergen,	Ellis,	McCormick,	Stewart, Tex.
Biggs,	Ewart,	McCreary,	Stockbridge,
Bingham,	Farquhar,	McKenna,	Stone, Mo.
Blanchard,	Finley,	McKinley,	Struble,
Bland,	Fitch,	McMillin,	Stump,
Blount,	Fithian,	Mills,	Sweeney,
Bowden,	Flick,	Moffitt,	Taylor, E. B.
Breckinridge, Ark.	Flood,	Moore, N. H.	Taylor, Ill.
Brickner,	Flower,	Moore, Tex.	Taylor, J. D.
Brower,	Forman,	Morgan,	Thomas,
Brown, J. B.	Fowler,	Morrill,	Thompson,
Browne, T. M.	Frank,	Morrow,	Tillman,
Browne, Va.	Funston,	Mutchler,	Townsend, Colo.
Brunner,	Gear,	Niedringhaus,	Townsend, Pa.
Buchanan, Va.	Gest,	Norton,	Tucker,
Bullock,	Gibson,	Oates,	Turner, Ga.
Bunn,	Gifford,	O'Donnell,	Turner, Kans.
Campbell,	Grout,	O'Ferrall,	Vandever,
Candler, Ga.	Hall,	O'Neill, Ind.	Van Schaick,
Candler, Mass.	Hansbrough,	O'Neill, Pa.	Venable,
Carliste,	Hare,	Osborne,	Waddill,
Carter,	Harmer,	Outhwaite,	Walker, Mass.
Caruth,	Hatch,	Owen, Ind.	Walker, Mo.
Caswell,	Haugen,	Parrett,	Wallace, N. Y.
Catchings,	Hayes,	Perkins,	Washington,
Cheatham,	Haynes,	Perry,	Watson,
Chipman,	Heard,	Phelan,	Wheeler, Mich.
Clancy,	Hemphill,	Pierce,	Whiting,
Clarke, Wis.	Henderson, Iowa	Price,	Whithorne,
Clunie,	Herbert,	Pugsley,	Wickham,
Cobb,	Hermann,	Quackenbush,	Wiley,
Cogswell,	Hitt,	Raines,	Wilkinson,
Comstock,	Kennedy,	Randall,	Wilson, Ky.
Conger,	Kerr, Pa.	Ray,	Wilson, Mo.
Cooper, Ind.	Ketcham,	Reed, Iowa	Wilson, Wash.
Cooper, Ohio	Kilgore,	Reyburn,	Wilson, W. Va.
Cothran,	Knapp,	Richardson,	Wright,
Craig,	Lacey,	Rife,	Yoder.

The following members who failed to answer on the roll-call reported their names to the Clerk from time to time during the continuance of the session, and in accordance with the rule they were entered on the Journal as present:

Mr. ABBOTT, Mr. ALLEN of Mississippi, Mr. BANKHEAD, Mr. BARNES, Mr. BECKWITH, Mr. BELDEN, Mr. BUCHANAN of Virginia, Mr. BULLOCK, Mr. CATCHINGS, Mr. CHIPMAN, Mr. CLANCY, Mr. CLUNIE, Mr. COGSWELL, Mr. COTHRAN, Mr. CRISP, Mr. DE LANO, Mr. DINGLEY, Mr. DOLLIVER, Mr. EDMUNDS, Mr. ELLIOTT, Mr. EWART, Mr. FITHIAN, Mr. FLOOD, Mr. FLOWER, Mr. FRANK, Mr. GEAR, Mr. GEST, Mr. HANSBROUGH, Mr. HEARD, Mr. HEMPHILL, Mr. HENDERSON of Iowa,

Mr. KENNEDY, Mr. LANSING, Mr. MCCARTHY, Mr. MCCLELLAN, Mr. MCCREARY, Mr. McMILLIN, Mr. MORRILL, Mr. MUDD, Mr. MUTCHLER, Mr. NORTON, Mr. O'DONNELL, Mr. PIERCE, Mr. PUGSLEY, Mr. QUINN, Mr. RANDALL, Mr. REED of Iowa, Mr. ROBERTSON, Mr. ROWELL, Mr. SCRANTON, Mr. SCULL, Mr. SMYSER, Mr. STRUBLE, Mr. SWENEY, Mr. TAYLOR of Illinois, Mr. THOMAS, Mr. TURNER of Georgia, Mr. WILSON of Washington, Mr. YODER.

Mr. BUTTERWORTH. I offer the resolution which I send to the desk.

The Clerk read as follows:

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

Mr. WHEELER, of Alabama. As a substitute for that, I move to dispense with further proceedings under the call of the House.

Mr. CRISP. I rise to a question of order.

Mr. SPRINGER. There are a number of gentlemen present whose names were not called on the first call of the roll.

The SPEAKER *pro tempore*. They can have their names recorded by reporting to the Clerk under the rule.

Mr. CRISP. But the question of order I raise is in regard to the motion of the gentleman from Ohio.

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

Mr. CRISP. Is it not in order to call the names of the absentees, in order to offer excuses, before the order suggested by the gentleman from Ohio is made to send for and arrest members?

The SPEAKER *pro tempore*. It is in order to present excuses for absent members before the order of arrest is made; but the provision of the rule does not require a call of the roll a second time for that purpose.

Mr. CRISP. It is certainly in order to call the roll for excuses.

The SPEAKER *pro tempore*. It has never been done under the present rules.

Mr. CRISP. I beg pardon of the Chair. It has been always held in order, and it has been invariably held that on the second call only it was in order to present excuses, not on the first call.

Mr. DOCKERY. That has been the universal practice.

Mr. BUTTERWORTH. Any gentleman who is in the Hall can report at the desk and enter his name.

Mr. CRISP. But that does not meet the point.

The SPEAKER *pro tempore*. The Chair will cause the rule to be read.

Mr. CRISP. The Chair will observe that unless there is some such practice it is impossible—or perhaps it can not be done in any regular way—to offer excuses for any member who may be necessarily absent. You can not interrupt the first call to do it, and it has always been done on the second call.

The SPEAKER *pro tempore*. The Chair will cause the rule to be read.

The Clerk read as follows:

2. In the absence of a quorum, fifteen members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent members, and in all calls of the House the doors shall be closed, the names of the members shall be called by the Clerk, and the absentees noted; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

The SPEAKER *pro tempore*. It will be observed from the reading of this rule that there is no provision for a second call. But a motion by any member is in order to excuse absentees.

Mr. CRISP. Now, Mr. Speaker, this is the first time that a call of the House has been had under this code of rules, and I ask the Speaker—

The SPEAKER *pro tempore*. There have been several calls of the House under these rules.

Mr. CRISP. But there has been no order for the arrest of absent members, and I ask the Speaker for a moment—I have not the rules before me—to look at the manual of practice of the House and see the exact position we are in, unless there be a second call of the roll to enable excuses to be offered. Now, the gentleman from Ohio moves the usual resolution that the absentees be sent for and brought before the bar of the House. Before that I want to offer a resolution to excuse, say, one of my colleagues necessarily absent from the House. Can I take the gentleman from Ohio off the floor for that purpose? If I can not, why, what is the effect? You have signed a warrant to arrest a man and sent the Sergeant-at-Arms to execute it, after which he may be excused by the action of the House.

The other practice has been uniformly observed. This is in accordance with the regularity of the proceedings in the House, and ever since I have been a member of the House, and as far as I have ever had occasion to look at the practice of the House, there has always been a call of absentees in order that excuses might be offered.

Mr. HOPKINS. Why may not an excuse be offered on the first as well as on the second call?

Mr. CRISP. It has been always held that you could not interrupt



the first call by a motion. The gentleman will understand that these requests for the excuse of a member may involve a motion.

The SPEAKER *pro tempore*. If the Chair is permitted to state—

Mr. BRECKINRIDGE, of Kentucky. Besides that, Mr. Speaker, there is no certainty that there is a quorum present until the call has been had again.

The SPEAKER *pro tempore*. Under the rule it is provided that when a motion is made for a call of the House the doors shall be immediately closed. That is a change from the old rule; and there is no provision for a second call. Under the old rule, however, there was one call of the roll, and then the doors were closed, and after the doors were closed the names of the absentees were called before excuses could be offered. If the gentleman will turn to page 296 of the Manual he will find the following:

At the conclusion of the call of the roll—which is called but once—the absentees are noted and the doors closed; the names of the absentees are called over, and a list of those for whom no sufficient excuse is made is furnished the Sergeant-at-Arms by the Clerk.

Now the rule has been changed so that the doors are closed first and there is no provision for the second call. But the Chair thinks that time will be saved by directing the Clerk to call the names of those not responding on the first call, and the Chair will direct the Clerk to call the roll of such members.

Mr. BUTTERWORTH. I have no objection to that.

Mr. SPRINGER. Will the Chair allow me a moment?

Mr. LODGE. Let us have the regular order.

The SPEAKER *pro tempore*. The Clerk will call the names of the members who did not respond on the first call.

The Clerk proceeded to call the names of absentees.

Mr. BUCHANAN, of New Jersey (when the name of Mr. BERGEN was called). Mr. BERGEN is absent in Arkansas by virtue of the order of the House, and I move that he be excused.

The SPEAKER *pro tempore*. A member absent by leave of the House or upon its order needs no motion to be excused.

Mr. PENNINGTON (when the name of Mr. BIGGS was called). Mr. BIGGS left the House feeling quite unwell about an hour ago. I move that he be excused.

The motion was agreed to.

Mr. MCRAE (when the name of Mr. BRECKINRIDGE, of Arkansas, was called). My colleague is absent by order of the House.

Mr. BYNUM (when the name of J. B. BROWN was called). The gentleman from Indiana, Mr. T. M. BROWNE, and also Mr. J. B. BROWN are absent by leave of the House.

The SPEAKER *pro tempore*. Where a member is absent by leave or by order of the House no excuse is necessary.

Mr. CARLTON (when the name of Mr. COBB was called). My colleague [Mr. COBB] is sick, and I ask that he be excused.

There was no objection, and it was so ordered.

Mr. MARTIN, of Indiana (when the name of Mr. COOPER, of Indiana, was called). The gentleman from Indiana [Mr. COOPER] has for some time past not been in good health, and went home this afternoon not feeling well. I ask that he be excused.

There was no objection, and it was so ordered.

Mr. GOODNIGHT (when the name of Mr. ELLIS was called). My colleague [Mr. ELLIS] has not been in his seat to-day. He left the House yesterday saying that he had a chill, and I am sure that he is sick to-day. I ask that he be excused.

There was no objection, and it was so ordered.

Mr. BROSIUS (when the name of Mr. HARMER was called). My colleague went home a few days ago sick, and I ask that he be excused.

There was no objection, and it was so ordered.

Mr. WHEELER, of Alabama (when the name of Mr. HERBERT was called). I believe my colleague has leave.

The SPEAKER *pro tempore*. In that case he is excused.

Mr. QUINN (when the name of Mr. LAWLER was called). Mr. LAWLER has been suddenly called to his home in Chicago, and I ask that he be excused.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. LAWLER] wrote to the Chair asking to be excused this morning. The Chair was unable to lay the request before the House. If there be no objection, the gentleman will be excused.

There was no objection, and it was so ordered.

Mr. REILLY (when the name of Mr. MAISH was called). My colleague [Mr. MAISH] is absent by order of the House in Arkansas.

The SPEAKER *pro tempore*. When any member by order of the House or by leave of the House is absent no excuse is necessary.

Mr. GROSVENOR (when the name of Mr. MOFFITT was called). The gentleman from New York [Mr. MOFFITT] was called home suddenly on important business. He left the night before last, and I ask that he be excused. He has not been in the House for two days.

There was no objection, and it was so ordered.

Mr. REILLY (when the name of Mr. MUTCHLER was called). My colleague was in attendance during the session to-day, but left the House to go to his committee-room to attend to some committee work. I have sent for him and ask that he may be omitted from the order of arrests.

Mr. BAKER. What for?

Mr. REILLY. He went to his room late this afternoon for the purpose of investigating a bill that is before his committee.

Mr. BAKER. I object.

Mr. REILLY. In addition to that I desire to state that I have telephoned for him, and I expect him every moment. [Cries of "Regular order!"]

Mr. BAKER. I object.

Mr. MARTIN, of Texas (when the name of Mr. MILLS was called). I ask that my colleague [Mr. MILLS] be excused on account of sickness.

Mr. BAKER. I object. His place is here.

The SPEAKER *pro tempore*. The question then is, Shall the gentleman from Texas [Mr. MILLS] be excused?

The motion was agreed to.

Mr. CLARKE, of Alabama (when the name of Mr. OATES was called). My colleague [Mr. OATES] is absent by order of the House.

Mr. MCRAE (when the name of Mr. ROGERS was called). I move that my colleague [Mr. ROGERS] be excused on account of sickness.

Mr. BAKER. I object.

Mr. MCRAE. I did not ask unanimous consent. I moved that he be excused. He had leave of absence yesterday.

The motion was agreed to.

Mr. BRECKINRIDGE, of Kentucky (when the name of Mr. CARLISLE was called). I ask unanimous consent that my colleague [Mr. CARLISLE] may be excused. He is not sick, but he is not strong, and he is engaged in some work that requires him to be out of the House.

There was no objection, and it was so ordered.

Mr. DOCKERY (when the name of Mr. STONE, of Missouri, was called). My colleague [Mr. STONE, of Missouri] left for Missouri this afternoon, and asked me to obtain leave of absence for him on Monday. In view of the fact that he is out of the city, I ask that he be excused.

There was no objection, and it was so ordered.

Mr. WILLIAMS, of Ohio (when the name of Mr. JOSEPH D. TAYLOR was called). I ask unanimous consent that my colleague be excused on account of sickness.

There was no objection, and it was so ordered.

Mr. KINSEY (when the name of Mr. WALKER, of Missouri, was called). My colleague was paired with me, and he left the House this afternoon. I ask that he be excused.

The SPEAKER *pro tempore*. Is there objection?

Mr. CANNON. On what ground is it moved that he be excused? The SPEAKER *pro tempore*. On the ground that the gentleman was paired.

Mr. CANNON. That it is not any ground at all.

The motion was rejected.

Mr. DUNNELL (when the name of Mr. VANDEVER was called). I move that the gentleman from California [Mr. VANDEVER] be excused. He is a man of advanced years and is in poor health.

There was no objection, and it was ordered.

Mr. QUINN (when the name of Mr. WHITING was called). Mr. WHITING is lying sick in his bed, and I move that he be excused.

The motion was agreed to.

Mr. COLEMAN (when the name of Mr. WILKINSON was called). I ask that my colleague, Mr. WILKINSON, be excused. He has been sick in bed several days, and received a telegram telling him that there was a crevasse upon his plantation. He was called out of bed and is now on his way to Louisiana.

There was no objection, and it was so ordered.

Mr. PEEL (when the name of Mr. WHITTHORNE was called). I ask that Mr. WHITTHORNE be excused. It is well known that he is in bad health.

There was no objection, and it was so ordered.

Mr. LODGE. I ask that my colleague, General BANKS, be excused. He left the House not well this afternoon.

There was no objection, and it was so ordered.

Mr. STEWART, of Vermont. I ask that my colleague, Mr. GROUT, be excused. He is confined to his bed by sickness.

There was no objection, and it was so ordered.

Mr. CANNON. I ask that my colleague, Mr. FORNEY, of Alabama, be excused. He has been sick, as we all know, and is not able to stay.

There was no objection.

Mr. BOUTELLE. I ask that my colleague, Mr. DINGLEY, who has been quite ill during the past week, be excused.

There was no objection, and it was so ordered.

Mr. MARTIN, of Texas. I ask that my colleague, Mr. CULBERSON, of Texas, be excused. He was here six hours to-day and left the House quite unwell, and I expect he is now in bed.

There was no objection, and it was so ordered.

Mr. PICKLER. I ask that my colleague, Mr. GIFFORD, be excused. He is sick and confined to his bed.

There was no objection, and it was so ordered.

For the other absentees no excuses were offered.

Mr. TURPIN. Mr. Speaker, Mr. ANDREW, of Massachusetts, is absent under rather peculiar circumstances, and I ask that he be excused. Last night I found on the street two boys begging, who impressed me



as not being ordinary beggars. Upon close questioning I ascertained that they were from Boston and had run away from their homes there, and I reported the fact to Mr. ANDREW, who is off now making arrangements to send them home. I ask that he be excused.

There was no objection, and it was so ordered.

Mr. BUCKALEW. Mr. Speaker, there is one important member of the House whose name I have not heard called, the Speaker. [Laughter.] His presence is just as important as that of any other member of the House in counting a quorum. I suppose that under the rules it will be necessary to take some action to excuse him, and I desire to move that he be excused, as he is absent upon a very important and interesting visit to my own State. [Laughter.]

The SPEAKER *pro tempore*. The Speaker's name has not been called.

Mr. BAKER. I ask unanimous consent that my colleague on the Committee on Territories, Mr. BARNES, be excused on account of illness.

There was no objection, and it was so ordered.

Mr. TURNER, of New York. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. KILGORE] be excused. [Cries of "Oh, no!"] I ask it upon the ground that if he were brought in here he would delay the proceedings of this House more than he can do by his absence. [Laughter.]

Mr. CANNON. Mr. Speaker, I move the adoption of the resolution of the gentleman from Ohio [Mr. BUTTERWORTH].

The resolution was read, as follows:

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

The resolution was adopted.

Mr. MCCREARY. Mr. Speaker, I move to dispense with all further proceedings under the call.

The motion was rejected—ayes 37, noes 54.

Mr. WHEELER, of Alabama. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state his inquiry. Mr. WHEELER, of Alabama. I desire to inquire why it is that the motion to dispense with further proceedings under the call was not in order as a substitute for the motion of the gentleman from Ohio.

The SPEAKER *pro tempore*. It was not offered as a substitute. A motion to dispense with further proceedings under the call is in order at any time. The resolution to send for absent members has already been adopted.

Mr. QUINN (at 7.20 p. m.). I believe, Mr. Speaker, that at this time a motion to adjourn is in order. If such is the case I make that motion.

The motion was rejected.

Mr. WHEELER, of Alabama. I rise to a parliamentary inquiry. I wish to ask whether the question arising here to-night as to whether the roll should be called once or twice would not be governed by general parliamentary law where the rule is not definite, and I wish to read a paragraph from Jefferson's Manual on that point:

On a call of the House each person rises up as he is called and answereth; the absentees are then only noted, but no excuse to be made till the House be fully called over. Then the absentees are called a second time, and, if still absent, excuses are to be heard.

Mr. STOCKDALE. I rise to a point of order. This is clearly a dilatory proceeding.

The SPEAKER *pro tempore* (Mr. ADAMS). The Chair will state that there is nothing before the House.

Mr. WHEELER, of Alabama. I wish to read a passage on this question of parliamentary law, and I wish the House to keep quiet while I do so.

The SPEAKER *pro tempore*. The question which the gentleman was discussing can not now come before the House, as the House has already decided the question. There is nothing before the House.

Mr. WHEELER, of Alabama. Can not a member make a parliamentary inquiry, and, as bearing upon the inquiry, read from a parliamentary authority?

Mr. STOCKDALE. Mr. Speaker, as there is nothing before the House, I have a question of importance that I would like to have decided, and it may as well be decided now as at any other time, even though there is no quorum, because I do not suppose that any gentleman will call a quorum upon it.

Mr. ALLEN, of Michigan. Mr. Speaker, I make the point of order that the gentleman from Mississippi is not in order.

Mr. BUTTERWORTH. I want to say to our friends that I think we have indulged in this innocent pastime about long enough, and I suggest that we agree that the previous question be considered as ordered upon the pending bill and amendments, and then that we adjourn until Monday morning.

The SPEAKER *pro tempore*. The gentleman from Ohio [Mr. BUTTERWORTH] asks unanimous consent that the previous question shall be considered as ordered upon the bill which was pending when the call of the House was ordered and the amendments thereto. Is there objection?

Mr. BYNUM. I rise to a parliamentary inquiry.

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

Mr. BYNUM. It appears upon the records of this House that a quorum is not present. Now, is it proper for this minority to transact any business, by unanimous consent or otherwise?

Mr. BUTTERWORTH. My friend knows very well that we often do that, the question of a quorum not being made.

Mr. BYNUM. But in this case it has been raised.

Mr. BUTTERWORTH. Yes; but I do not want my brother to raise it again. [Laughter.]

The SPEAKER *pro tempore*. The Chair will state that under the present rules of the House members absent on a call of the House and appearing in the mean time have their names entered by the Clerk; so that the Chair is not aware of the actual number of members present, and by unanimous consent the motion might be made and agreed to.

Mr. BYNUM. Then I object to the unanimous consent.

Mr. BRECKINRIDGE, of Kentucky. My friend from Cincinnati [Mr. BUTTERWORTH] seems to be in a very pleasant humor and my friend from Indiana [Mr. BYNUM] also seems to be playful this evening, and I suggest that, as it is Saturday evening and many of us are dinnerless, we now adjourn.

Mr. BUTTERWORTH. I can not consent to that. I appeal to my friend from Indiana—

The SPEAKER *pro tempore*. The motion to adjourn would not now be recognized by the Chair.

Mr. MCCREARY. I will say to my friend from Ohio that I also appealed to my friend from Indiana and found him full of hardness of heart.

Mr. BUTTERWORTH. And reprobacy of mind. [Laughter.]

Mr. MCCREARY. And as the gentleman from Ohio and myself desire to arrive at the same end, namely, to dissolve this assembly and go home, I suggest as a compromise that we now adjourn, and on Monday morning we will take up this bill and pass it, and the country will not suffer by the delay of a few hours. We will go home and we shall be in a better condition to attend church to-morrow.

Mr. BUTTERWORTH. Oh, now, do not begin that. [Laughter.]

Mr. MCCREARY. If the gentleman will excuse me I have the floor. I had hoped that when I turned from the gentleman from Indiana [Mr. BYNUM] I would not encounter equal hardness of heart on the other side in the person of my neighbor and friend from Ohio [Mr. BUTTERWORTH].

Mr. BUTTERWORTH. Well, I will suggest to my friend that he go after the one ewelamb; the ninety-nine of us are all right. [Laughter.]

Mr. MCCREARY. I prefer to go after the "bell-wether." [Great laughter.] Mr. Speaker, I ask for a vote on my motion.

Mr. BUTTERWORTH. It is a dilatory motion. I raise that point.

Mr. MCCREARY. I desire to be heard on that point, Mr. Speaker.

Mr. BUTTERWORTH. I wish to submit a suggestion. I think my friend from Indiana [Mr. BYNUM] supposed that we were going to insist upon passing this bill to-night. The bill was completed in all its parts and there was not a gentleman on this floor who objected to it, and we simply asked not to pass it. My friend from Indiana misunderstood me if he thought that I asked that. My purpose was simply to have the previous question considered as ordered on the bill and amendments and then to adjourn. I am informed that my friend from Indiana understood that it was the purpose of this side of the House, or of myself, to have the bill passed *notens volens*, and in that he was in error. He certainly misunderstood me if he thought that it was my intention to go ahead rough-shod and to attempt to pass the bill to-night if any gentleman desired it laid over; and, in fact, at the suggestion of my friend from Missouri [Mr. DOCKERY] I said I was willing to let the bill go over with the previous question considered as ordered.

Mr. MCCREARY. Mr. Speaker, if the gentleman from Indiana [Mr. BYNUM] is a little contrary this evening—

Mr. BYNUM. Mr. Speaker, I desire to state the reasons for my action before I am subjected to any more of this criticism. [Laughter.]

Mr. MCCREARY. I will yield to the gentleman from Indiana.

Mr. BYNUM. I desire to say that this bill carries an appropriation of some \$20,000,000—

Mr. MCCREARY. How much time does my friend want?

Mr. BYNUM. I have the floor to-night myself.

Mr. MCCREARY. I thought I had the floor. I had not yielded it.

Mr. CLUNIE. May I ask the gentleman a question?

Mr. BYNUM. I do not want to stop to answer any questions. In response to what the gentleman from Ohio has put in the RECORD, I desire to say a word. This bill carries an appropriation of some \$20,000,000. There are provisions in it which, as the gentleman concedes, change existing law. At the close of the bill there is a clause providing that all laws in conflict with the provisions of the bill shall be repealed. It is not known to the House—at least, the Committee on Appropriations have not advised the House as we progressed—what changes were made or the effect of them. I believe it was by this same character of legislation and in this same manner that silver was demonetized. I want to know what those changes are or I want the gentleman in charge of the bill to withdraw the concluding provision



which repeals all laws that come in conflict with any portion of the bill. I think that a measure of such great importance, containing a provision repealing laws now upon the statutes and embracing new measures of legislation, and carrying this amount of money, ought to go over until we can have it explained; at least, it should not be passed by one-third of the members of the House or less.

Mr. BUTTERWORTH. Well, if that suggestion is satisfactory to my friend, put it in the RECORD. I happen to know that the gentleman does not want the bill passed, simply because he has got out of temper.

Mr. McMILLIN. Is what the gentleman stated true? That is the question. We do not care about the temper or the want of temper.

Mr. BUTTERWORTH. Neither do I.

Mr. McMILLIN. Is it true?

Mr. BUTTERWORTH. It is not; and you know it.

Mr. McMILLIN. I do not.

Mr. BUTTERWORTH. Then you have not as much information as you ought to have. I know that this is simply an attempt to prevent the passage of the bill by an arbitrary exercise of power.

Mr. BYNUM. I say to the gentleman, in parliamentary language, that he has no right to impugn my motives.

Mr. McMILLIN. I desire to state in response to this little exhibition of temper by the gentleman from Ohio—

Mr. PAYNE. I make the point of order that there is nothing before the House.

Mr. McMILLIN. I simply proposed to state what I thought the House would be interested in knowing. I did not propose to engage in any monkey show with the gentleman from Ohio. I will not attempt to follow him in that line.

Mr. ALLEN, of Michigan. I rise to a point of order. My point is that in the present condition of affairs no business and no discussion is in order. I object to any further discussion here until members of the House who are absent report or until further proceedings under the call are dispensed with. I shall insist upon this point. I want a ruling of the Chair on the question whether any discussion is now in order or whether any business can be done.

The SPEAKER *pro tempore* (Mr. ADAMS). The Chair will state, in response to the point of order, that no discussion is permitted under the rules except upon a proposition pending before the House. But during a call of the House, when no business is in order except to wait for the Sergeant-at-Arms to execute the order of the House, a colloquy between gentlemen, if it is kept within proper bounds, is often conducive to the promotion of public business. [Laughter.] The Chair will also remind the House that under the circumstances in which we find ourselves the Chair must rely upon the individual members of the House to preserve such order as is possible.

Mr. ALLEN, of Michigan. The trouble was with the "colloquy;" and I do not want any more of such proceedings. That is the reason I insist on the enforcement of the rule.

Mr. McCREARY. I rise to a point of order. A call of the House having been ordered and being now in course of execution, no motion is in order except to adjourn or to dispense with further proceedings under the call.

The SPEAKER *pro tempore*. The gentleman is correct.

Mr. McCREARY. I now move that the House adjourn.

The SPEAKER *pro tempore*. That motion is not now in order.

Mr. McCREARY. I should like to be heard on that question.

The SPEAKER *pro tempore*. The Chair decides that a motion to adjourn having been made and voted down, and no intervening business having transpired, another motion to adjourn is not now in order.

Mr. McCREARY. I desire to be heard a moment on the question.

The SPEAKER *pro tempore*. The gentleman will proceed.

Mr. McCREARY. The ruling of the Chair is correct in so far as he takes the position that one motion to adjourn having been voted upon we can not immediately follow that with another motion to adjourn. But it has been some time since that motion to adjourn was made. Now, I am making these remarks in good faith. The rule is that whenever business has intervened a second motion to adjourn is in order.

Now, since the former motion to adjourn was made the gentleman from Alabama [Mr. WHEELER] rose to debate a question of order. The gentleman from Michigan made a point of order and the Speaker made a decision upon it, and perhaps other gentlemen rose to points of order which were considered and decided by the Chair. I therefore assume that there has been intervening business, such as is required by the rule, and I am making this motion in good faith, not for the purpose of delay. I do not make the motion for any such object, but make it in good faith.

The SPEAKER *pro tempore* (Mr. ADAMS). The rule referred to by the gentleman is a very ancient one, and there was an ancient way of avoiding it in the House of Commons, in the ordinary business of the House, which was to move that an entry be made on the journal, an irrelevant entry it may be, so that it would be in order again to submit the motion. But the Chair is of opinion that informal discussion is not such intervening business as would warrant the entertaining of the motion.

Mr. McCREARY. But, Mr. Speaker, when a Speaker has decided a point of order, that of necessity goes on the Journal. There have

been, I think, three points of order raised, which were decided by the Speaker, and necessarily these have gone upon the Journal. That was intervening business.

Of course I submit to the ruling of the Chair, but I believe it to be erroneous. I would myself have ruled otherwise, because I believe that whenever an entry is made on the Journal it is such intervening business as warrants the entertaining of the motion.

Mr. McMILLIN. Besides that there has been debate.

Mr. McCREARY. And, as has been suggested by the gentleman from Tennessee, there has been debate. Clearly there has been intervening business.

Mr. BUCKALEW. Mr. Speaker, at the end of most wars the great question is to save to the belligerents the point of honor. The interest arising in the consideration of this case in the committee has passed beyond consideration. Now, sir, I think the gentleman in charge of this bill, the member from Ohio, who has been very courteous and considerate, as all gentlemen know, during the progress of the consideration of this bill by the committee, has it in his power to end this matter practically. I see no material difference between ordering the previous question and then adjourning, or having the bill come up on Monday morning and then ordering the previous question, as would undoubtedly be the case. I see no practical point therefore in the controversy and nothing about which we ought to be delayed a moment in the House.

If I had my way I would adopt first a motion that the proceedings be dispensed with under the call; secondly, that the previous question be considered as ordered by common consent, and if that can not be obtained then that we adjourn, and the previous question can be ordered on Monday. Why expend more time at great inconvenience to the members at the close of the week by a mere controversy of this kind on which there is no radical difference of opinion. If this view, which I have suggested, be entertained, I trust some gentleman on the majority side will move to dispense with proceedings under the call, and then that consent will be given that the previous question be ordered and we adjourn; or, if otherwise, that we adjourn and the previous question be ordered on Monday morning.

The SPEAKER *pro tempore*. Does the gentleman make the motion?

Mr. BUCKALEW. No, sir; the gentleman in charge of the bill ought to do that.

Mr. BUTTERWORTH. I would say to my friend that there has been no moment when I have not been of an accommodating turn of mind. I made a proposition awhile ago and I could only renew it now.

Mr. WILLIAMS, of Illinois. But why not adjourn? What is the reason for not adjourning without ordering the previous question?

Mr. BOUTELLE. Because we will not let him.

Mr. WILLIAMS, of Illinois. As the gentleman from Maine seems to have the floor, is that the only reason he can give?

Mr. WHEELER, of Alabama. If the gentleman from Ohio moves that the House adjourn, it will be voted on favorably, I am sure.

Mr. BUTTERWORTH. It is not the custom in a legislative body composed of over three hundred men to allow one man to run the proceedings.

Mr. WILLIAMS, of Illinois. But is it not simply a matter of contention between two men?

Mr. BUTTERWORTH. Not at all. There is not a man on this floor, so far as I know, except one, who is not willing to do just what has been proposed.

Mr. WILLIAMS, of Illinois. Well, one is enough; and there may be quite a number of other gentlemen who believe that this proceeding is proper.

Mr. BUTTERWORTH. Then that is a good reason for continuing the proceedings until we exercise the will of the legislative body.

Mr. WILLIAMS, of Illinois. Can the gentleman give any reason for ordering the previous question now instead of on Monday?

Mr. BUTTERWORTH. Simply because it is the orderly conduct of the public business. I have never known anything different, nor, I presume, does my friend know any other mode.

Mr. WILLIAMS, of Illinois. The adjournment at the close of the day's session is also an orderly mode of procedure.

Mr. BUTTERWORTH. Certainly, but no motion was made to adjourn; and since this proceeding has begun it has been made and voted down. But I believe we have a quorum present, or very near it, now.

Mr. CHEADLE. Not quite, I think.

Mr. McCREARY. I move to dispense with further proceedings under the call.

Mr. BUTTERWORTH. On that motion I demand tellers.

Tellers were ordered.

Mr. McCREARY and Mr. BUTTERWORTH were appointed tellers.

The House divided; and the tellers reported—ayes 40, noes 92.

The yeas and nays were ordered.

The question was taken; and there were—yeas 58, nays 87, not voting 182; as follows:

## YEAS—58.

Allen, Miss.	Buchanan, Va.	Clancy,	Cowles,
Bankhead,	Buckalew,	Clark, Ala.	Crisp,
Boatner,	Bullock,	Clements,	Dookery,
Breckinridge, Ky.	Carlton,	Cothran,	Edmunds,
Brookshire,	Chipman,	Covert,	Enloe,



Fithian, Geissenhainer, Goodnight, Grimes, Hemphill, Henderson, N. C. Hooker, Lester, Ga. Lewis, Martin, Ind.	Martin, Tex. McCarthy, McClellan, McCreary, McMillin, McRae, Montgomery, Mutchler, Norton, O'Neil, Mass.	Owens, Ohio Paynter, Pennington, Pierce, Quinn, Reilly, Robertson, Spinola, Springer, Stewart, Ga.	Stockdale, Tarsney, Turner, Ga. Turpin, Wheeler, Ala. Wike, Willecox, Williams, Ill.
--	---	---	---

## NAYS—87.

Adams, Allen, Mich. Arnold, Baker, Beckwith, Belden, Belknap, Bliss, Boothman, Boutelle, Brewer, Brosius, Buchanan, N. J. Burrows, Burton, Butterworth, Bynum, Caldwell, Cannon, Cheadle, Clunie, Coleman,	Connell, Culbertson, Pa. Cummings, De Lano, Dingley, Dolliver, Dorsey, Dunnell, Ewart, Featherston, Flood, Frank, Gear, Gest, Greenhalge, Grosvenor, Hansbrough, Henderson, Ill. Henderson, Iowa Hill, Hopkins, Houk,	Kelley, Kennedy, Kerr, Iowa Kinsey, Lansing, Laws, Lehbach, Lind, Lodge, McClammy, McCord, Miles, Milliken, Morey, Morse, Mudd, Nute, O'Donnell, Payne, Payson, Peters, Post,	Pugsley, Randall, Reed, Iowa Rockwell, Rowell, Russell, Sanford, Sawyer, Scull, Sherman, Simonds, Smith, Ill. Spooners, Stewart, Vt. Stivers, Taylor, Tenn. Tracey, Wade, Wallace, Mass. Williams, Ohio Yardley.
---	--	--	--

## NOT VOTING—182.

Abbott, Alderson, Anderson, Kans. Anderson, Miss. Andrew, Atkinson, Pa. Atkinson, W. Va. Banks, Barnes, Bartine, Barwig, Bayne, Bergen, Biggs, Bingham, Blanchard, Bland, Blount, Bowden, Breckinridge, Ark. Briekner, Brower, Brown, J. B. Browne, T. M. Browne, Va. Brunner, Bunn, Campbell, Candler, Ga. Candler, Mass. Carlisle, Carter, Caruth, Caswell, Catchings, Cheatham, Clark, Wis. Cobb, Cogswell, Comstock, Conger, Cooper, Ind. Cooper, Ohio Craig, Crain, Culbertson, Tex.	Cutcheon, Dalzell, Dargan, Darlington, Davidson, De Haven, Dibble, Dunphy, Elliott, Ellis, Evans, Farquhar, Finley, Fitch, Flick, Flower, Forman, Forney, Fowler, Funston, Gibson, Gifford, Grout, Hall, Hare, Harmer, Hatch, Haugen, Hayes, Haynes, Heard, Herbert, Hermann, Hitt, Holman, Kerr, Pa. Ketcham, Kilgore, Knapp, Lacey, La Follette, Laidlaw, Lane, Lanham, Lawler, Lee,	Lester, Va. Magner, Maish, Mansur, Mason, McAdoo, McComas, McCormick, McKenna, McKinley, Mills, Moffitt, Moore, N. H. Moore, Tex. Morgan, Morrill, Morrow, Niedringhaus, Oates, O'Ferrall, O'Neill, Ind. O'Neill, Pa. Osborne, Outhwaite, Owen, Ind. Parrett, Peel, Perkins, Perry, Phelan, Pickler, Price, Quackenbush, Raines, Ray, Reyburn, Richardson, Rife, Rogers, Rowland, Rusk, Sayers, Scranton, Seney, Shively, Skinner,	Smith, W. Va. Smyser, Snider, Stahnecker, Stephenson, Stewart, Tex. Stockbridge, Stone, Ky. Stone, Mo. Struble, Stump, Sweney, Taylor, E. B. Taylor, Ill. Taylor, J. D. Thomas, Thompson, Tillman, Townsend, Colo. Townsend, Pa. Tucker, Turner, Kans. Turner, N. Y. Vandever, Van Schaick, Venable, Waddill, Walker, Mass. Walker, Mo. Wallace, N. Y. Washington, Watson, Wheeler, Mich. Whiting, Whitthorne, Wickham, Wiley, Wilkinson, Wilson, Ky. Wilson, Mo. Wilson, Wash. Wilson, W. Va. Wright, Yoder.
--	---	---	--

So the motion to dispense with further proceedings under the roll-call was rejected.

Mr. ABBOTT (when his name was called). I am paired.

Mr. SWENEY (when his name was called). I desire to announce that I am paired.

The following pairs were announced:

Until further notice:

Mr. THOMAS M. BROWNE with Mr. JASON B. BROWN.

Mr. OWEN, of Indiana, with Mr. PARRETT.

Mr. BERGEN with Mr. BRECKINRIDGE, of Arkansas.

Mr. COOPER, of Ohio, with Mr. MAISH.

Mr. WHEELER, of Michigan, with Mr. PHELAN.

Mr. THOMPSON with Mr. OATES.

Mr. GIFFORD with Mr. WHITTHORNE.

Mr. FINLEY with Mr. CANDLER, of Georgia.

Mr. HARMER with Mr. STUMP.

Mr. WALKER, of Massachusetts, with Mr. LANE.

Mr. CLARK, of Wisconsin, with Mr. CATCHINGS.

Mr. KETCHAM with Mr. ROWLAND.

Mr. JOSEPH D. TAYLOR with Mr. WILKINSON.

Mr. TOWNSEND, of Pennsylvania, with Mr. BUNN.

Mr. MCCOMAS with Mr. SHIVELY.

Mr. GROUT with Mr. HEARD.

Mr. BOWDEN with Mr. LESTER, of Virginia, except the river and harbor bill.

Mr. MCCORMICK with Mr. KERR, of Pennsylvania, except the bankrupt and silver bills.

Mr. SWENEY with Mr. MANSUR, except upon the silver bill.

Mr. LACEY with Mr. WILSON, of Missouri, from April 22.

For this vote:

Mr. SENEY with Mr. EZRA B. TAYLOR.

Mr. CONGER with Mr. MORGAN.

Mr. LA FOLLETTE with Mr. MILLS.

Mr. BROWNE, of Virginia, with Mr. COOPER, of Indiana.

Mr. HOUK with Mr. RICHARDSON.

Mr. STEWART, of Vermont, with Mr. ROGERS.

Mr. OSBORNE with Mr. O'FERRALL.

Mr. BAYNE with Mr. CULBERTSON, of Texas.

Mr. HANSBROUGH with Mr. CRAIN.

Mr. WICKHAM with Mr. OUTHWAITE.

Mr. MOORE, of New Hampshire, with Mr. HAYNES.

For the rest of this day:

Mr. DINGLEY with Mr. FLOWER.

Mr. MCKINLEY with Mr. CARLISLE.

Mr. WADDILL with Mr. COBB.

Mr. ATKINSON, of West Virginia, with Mr. ALDERSON.

Mr. RAY with Mr. STEWART, of Texas.

Mr. PERKINS with Mr. TURPIN.

Mr. QUACKENBUSH with Mr. ABBOTT.

Mr. LANHAM with Mr. HERMANN.

Mr. WALLACE, of New York, with Mr. DIBBLE.

Mr. ALLEN, of Michigan, with Mr. STOCKDALE.

Mr. WATSON with Mr. ANDREW.

Mr. REYBURN with Mr. TUCKER.

Mr. HALL with Mr. PEEL.

Mr. TOWNSEND, of Colorado, with Mr. TARSNEY.

Mr. BANKS with Mr. COTHRAN.

Mr. WRIGHT with Mr. MOORE, of Texas.

Mr. DARLINGTON and Mr. MCADOO are paired until Tuesday next.

Mr. DE HAVEN and Mr. HERBERT are paired from April 24 to the end of next week.

Mr. O'NEILL, of Pennsylvania, and Mr. DAVIDSON are paired for the rest of this week.

Mr. MCADOO. I find that I am paired with Mr. DARLINGTON. I voted to make a quorum, and withdraw my vote.

Mr. CUMMINGS. I did not hear the name of my colleague, Mr. WILEY, read among the pairs. He is paired with a charming young lady from Indianapolis, and if present would vote "no."

Mr. PEEL. I find that I am paired with Mr. HALL, of Minnesota, and I desire to withdraw my vote.

Mr. FITHIAN. I believe I am paired.

Mr. BULLOCK. My colleague, Mr. DAVIDSON, is paired with Mr. O'NEILL, of Pennsylvania, and he has gone home on account of sickness. I ask that he be excused.

There was no objection.

The result of the vote was then announced as above recorded.

After some time,

Mr. BRECKINRIDGE, of Kentucky, said: Mr. Speaker, I ask if a motion to adjourn is now in order?

The SPEAKER *pro tempore*. It is.

Mr. BRECKINRIDGE, of Kentucky. Then I move that the House do now adjourn.

The motion was rejected.

Mr. SPINOLA. I would ask unanimous consent during the lull to take up a patriotic bill now on the Calendar.

Mr. KERR, of Iowa. I object.

Mr. SPINOLA. It is to erect a monument to the memory of eleven thousand five hundred patriots who perished in the Revolutionary war.

After further time spent under the call,

Mr. COVERT said: Mr. Speaker, is a motion to take a recess until Monday morning in order?

The SPEAKER *pro tempore*. The motion would not be in order.

Mr. COVERT. Then I move, Mr. Speaker, that all further proceedings under the roll-call be dispensed with.

Mr. GROSVENOR. I make the point of order that that was the last vote of the House.

The motion was rejected.

After some further time spent under the call,

Mr. GEISSENHAINER said: Mr. Speaker, I move that the House do now adjourn.

Mr. GEAR. I make the point of order that no business has been transacted since that motion was made before.

The SPEAKER *pro tempore*. The point of order is overruled.

The question was taken; and before the result was announced, Mr. BUTTERWORTH said: I ask for the yeas and nays on that. I think there is a quorum here, and that will determine it.

The yeas and nays were ordered.



The question was taken; and it was decided in the negative—yeas 57, nays 91, not voting 179; as follows:

YEAS—57.

Allen, Miss.	Crisp,	McClammy,	Robertson,
Bankhead,	Dockery,	McCreary,	Springer,
Boatner,	Edmunds,	McMillin,	Stewart, Ga.
Breckinridge, Ky.	Enloe,	McRae,	Stockdale,
Brookshire,	Pithian,	Montgomery,	Tarsney,
Buchanan, Va.	Geissenhainer,	Mutchler,	Turner, Ga.
Buckalew,	Goodnight,	Norton,	Turner, N. Y.
Bullock,	Grimes,	O'Neil, Mass.	Turpin,
Carlton,	Hemphill,	Owens, Ohio	Wheeler, Ala.
Chipman,	Hooker,	Paynter,	Wike,
Clancy,	Lester, Ga.	Peel,	Willcox,
Clarke, Ala.	Lewis,	Pennington,	Williams, Ill.
Clements,	Martin, Tex.	Pierce,	
Covert,	McAdoo,	Quinn,	
Cowles,	McCarthy,	Reilly,	

NAYS—91.

Adams,	Connell,	Kerr, Iowa	Rockwell,
Allen, Mich.	Culbertson, Pa.	Kinsey,	Rowell,
Arnold,	Cummings,	Lansing,	Russell,
Baker,	De Lano,	Laws,	Sanford,
Beckwith,	Dingley,	Lehlbach,	Sawyer,
Belden,	Dolliver,	Lind,	Scull,
Bellnap,	Dorsey,	Lodge,	Simonds,
Bliss,	Dunnell,	Martin, Ind.	Smith, Ill.
Boothman,	Ewart,	McCord,	Smysler,
Boutelle,	Featherston,	Miles,	Spinola,
Brewer,	Flood,	Milliken,	Spooner,
Brosius,	Frank,	Morey,	Stewart, Vt.
Buchanan, N. J.	Gear,	Morse,	Stivers,
Burrows,	Gest,	Mudd,	Sweeney,
Burton,	Greenhalge,	Nute,	Taylor, Ill.
Butterworth,	Grosvenor,	O'Donnell,	Taylor, Tenn.
Bynum,	Hansbrough,	Payne,	Tracey,
Caldwell,	Henderson, Ill.	Payson,	Wade,
Cannon,	Henderson, Iowa	Peters,	Wallace, Mass.
Cheadle,	Hill,	Pugsley,	Williams, Ohio
Clunie,	Hopkins,	Randall,	Wilson, Wash.
Cogswell,	Kelley,	Reed, Iowa	Yardley.
Coleman,	Kennedy,		

NOT VOTING—179.

Abbott,	Culbertson, Tex.	Lane,	Scranton,
Alderson,	Cutcheon,	Lanham,	Seney,
Anderson, Kans.	Dalzell,	Lawler,	Sherman,
Anderson, Miss.	Dargan,	Lee,	Shively,
Andrew,	Darlington,	Lester, Va.	Skinner,
Atkinson, Pa.	Davidson,	Magner,	Smith, W. Va.
Atkinson, W. Va.	De Haven,	Maish,	Snider,
Banks,	Dibble,	Mansur,	Stahlnecker,
Barnes,	Dunphy,	Mason,	Stephenson,
Bartine,	Elliott,	McClellan,	Stewart, Tex.
Barwig,	Ellis,	McComas,	Stockbridge,
Bayne,	Evans,	McCormick,	Stone, Ky.
Bergen,	Farquhar,	McKenna,	Stone, Mo.
Biggs,	Finley,	McKinley,	Struble,
Bingham,	Fitch,	Mills,	Stump,
Blanchard,	Flick,	Moffitt,	Taylor, E. B.
Bland,	Flower,	Moore, N. H.	Taylor, J. D.
Blount,	Forman,	Moore, Tex.	Thomas,
Bowden,	Forney,	Morgan,	Thompson,
Breckinridge, Ark.	Fowler,	Morrill,	Tillman,
Brickner,	Funston,	Morrow,	Townsend, Colo.
Brower,	Gibson,	Niedringhaus,	Townsend, Pa.
Brown, J. B.	Gifford,	Oates,	Tucker,
Browne, T. M.	Grout,	O'Ferrall,	Turner, Kans.
Browne, Va.	Hall,	O'Neill, Ind.	Vandever,
Brunner,	Hare,	O'Neill, Pa.	Van Schaick,
Bunn,	Harmer,	Osborne,	Venable,
Campbell,	Hatch,	Outhwaite,	Waddill,
Candler, Ga.	Haugen,	Owen, Ind.	Walker, Mass.
Candler, Mass.	Hayes,	Parrett,	Walker, Mo.
Carlisle,	Haynes,	Perkins,	Wallace, N. Y.
Carter,	Heard,	Perry,	Washington,
Caruth,	Henderson, N. C.	Phelan,	Watson,
Caswell,	Herbert,	Pickler,	Wheeler, Mich.
Catchings,	Hermann,	Price,	Whiting,
Cheatam,	Hitt,	Quackenbush,	Whitthorne,
Clark, Wis.	Holman,	Raines,	Wickham,
Cobb,	Houk,	Ray,	Wiley,
Comstock,	Kerr, Pa.	Reyburn,	Wilkinson,
Conger,	Ketcham,	Richardson,	Wilson, Ky.
Cooper, Ind.	Kilgore,	Rife,	Wilson, Mo.
Cooper, Ohio	Knapp,	Rogers,	Wilson, W. Va.
Cothran,	Lacey,	Rowland,	Wright,
Craig,	La Follette,	Rusk,	Yoder.
Crain,	Laidlaw,	Sayers,	

The SPEAKER *pro tempore*. Upon this question the yeas are 59 and the nays are 91. The noes have it, and the House refuses to adjourn.

The Sergeant-at-Arms appeared at the bar of the House, having in custody Mr. MORGAN and Mr. DE HAVEN.

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

Mr. MORGAN. At 3 o'clock this afternoon, being unwell and not wishing to trouble the House with an application for leave of absence, I arranged a pair with the gentleman from Iowa [Mr. CONGER] and went to my room. I had no idea, sir, that the House would be guilty of the folly of being here until this time. [Laughter.]

Mr. CRISP. I move that the gentleman be excused.

The question was taken; and Mr. MORGAN was excused—ayes 85, noes 34.

The SPEAKER *pro tempore*. Mr. DE HAVEN, you have been absent

from the sitting of the House without its leave. What excuse have you to offer?

Mr. BUTTERWORTH. Mr. Speaker, I rise to a parliamentary inquiry. I want to ascertain whether these gentlemen left the House after the call was ordered, as that information will have much to do with my voting to excuse.

Mr. DE HAVEN. Mr. Speaker, I was wearied with listening to the debates upon this bill and I left the House about 2 o'clock. I am paired, and not at liberty to vote.

Mr. BOUTELLE. I move that the gentleman be excused.

There was no objection, and it was so ordered.

The Sergeant-at-Arms again appeared at the bar and said: Mr. Speaker, in pursuance of the order of the House, I report the arrival of Mr. FLOWER.

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

Mr. FLOWER. I left this House at 5 o'clock this evening like a good honest citizen. [Laughter.] I did not know that the Republican party was in trouble. [Laughter.] I paired with a very able gentleman on the Republican side who was sick and desired to go home, and when I heard by telephone this evening that there was a call of the House I immediately came here to the relief of the Republican party and not of myself. [Laughter.] I did not know there was any arrest. I have not seen the Sergeant-at-Arms until now.

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

Mr. GROSVENOR. Mr. Speaker, either this proceeding of sending for members of this House ought to be dispensed with in the future or else there ought to be some serious consideration of the enforcement of the rules of the House. The members of this House, those who were present, have been sitting here for nearly four hours patiently waiting for contumacious gentlemen, who, for the purpose of breaking up the quorum of the House, deliberately absent themselves. The transaction has cost the Government many hundreds of dollars in cash. These "reformers" now come in here and say that they "did not know the Republican party were in trouble."

The Republican party were not in any trouble. They were ready to pass their bill, and I insist that gentlemen who put their fellow-members to the annoyance and inconvenience that we have been put to this evening ought not to come in here to trifle with the situation in this sort of way.

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

Mr. CRISP. I understand that there is a question of fact at issue and that the gentleman from New York [Mr. FLOWER] has not, in fact, been arrested by the Sergeant-at-Arms, but has reported himself present.

The SPEAKER *pro tempore*. The gentleman has so stated.

Mr. CRISP. Then he is not in default. He has done what he has a right to do under the rule, and I withdraw my motion that he be excused.

Mr. BUTTERWORTH. Mr. Speaker, I think we have a quorum in the Hall, and I move to dispense with further proceeding under the call, and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 59, nays 88, not voting 180; as follows:

YEAS—59.

Allen, Miss.	Covert,	McCarthy,	Quinn,
Bankhead,	Cowles,	McClammy,	Reilly,
Boatner,	Crisp,	McClellan,	Robertson,
Breckinridge, Ky.	Dockery,	McCreary,	Spinola,
Brookshire,	Edmunds,	McMillin,	Springer,
Buchanan, Va.	Enloe,	Montgomery,	Stewart, Ga.
Buckalew,	Flower,	Mutchler,	Stockdale,
Bullock,	Geissenhainer,	Norton,	Tracey,
Carlton,	Grimes,	O'Neil, Mass.	Turner, Ga.
Chipman,	Hemphill,	Owens, Ohio	Turner, N. Y.
Clancy,	Lester, Ga.	Paynter,	Wheeler, Ala.
Clarke, Ala.	Lewis,	Owens, Ohio	Wike,
Clements,	Martin, Ind.	Pennington,	Willcox,
Clunie,	Martin, Tex.	Pierce,	Williams, Ill.
Cothran,	McAdoo,		

NAYS—88.

Adams,	Connell,	Kelley,	Pugsley,
Allen, Mich.	Culbertson, Pa.	Kennedy,	Randall,
Arnold,	Cummings,	Kerr, Iowa	Reed, Iowa
Baker,	De Lano,	Kinsey,	Rockwell,
Beckwith,	Dingley,	Lansing,	Rowell,
Belden,	Dolliver,	Laws,	Russell,
Bellnap,	Dorsey,	Lehlbach,	Sanford,
Bliss,	Dunnell,	Lind,	Sawyer,
Boothman,	Ewart,	Lodge,	Scull,
Boutelle,	Featherston,	McCord,	Simonds,
Brewer,	Flood,	Miles,	Smith, Ill.
Brosius,	Frank,	Milliken,	Smysler,
Buchanan, N. J.	Gear,	Morey,	Spooner,
Burrows,	Gest,	Morse,	Stewart, Vt.
Burton,	Greenhalge,	Mudd,	Stivers,
Butterworth,	Grosvenor,	Nute,	Taylor, Ill.
Bynum,	Hansbrough,	O'Donnell,	Taylor, Tenn.
Caldwell,	Henderson, Ill.	Payne,	Wade,
Cannon,	Henderson, Iowa	Payson,	Wallace, Mass.
Cheadle,	Hill,	Peters,	Williams, Ohio
Cogswell,	Hopkins,	Pickler,	Wilson, Wash.
Coleman,	Houk,	Post,	Yardley.



## NOT VOTING—180.

Abbott,	Cutcheon,	Lane,	Sherman,
Alderson,	Dalzell,	Lanham,	Shively,
Anderson, Kans.	Dargan,	Lawler,	Shively,
Anderson, Miss.	Darlington,	Lee,	Smith, W. Va.
Andrew,	Davidson,	Lester, Va.	Snider,
Atkinson, Pa.	De Haven,	Magner,	Stahlnecker,
Atkinson, W. Va.	Dibble,	Maish,	Stephenson,
Banks,	Dunphy,	Mansur,	Stewart, Tex.
Barnes,	Elliott,	Mason,	Stockbridge,
Bartine,	Ellis,	McComas,	Stone, Ky.
Barwig,	Evans,	McCormick,	Stone, Mo.
Bayne,	Farquhar,	McKenna,	Struble,
Bergen,	Finley,	McKinley,	Stump,
Biggs,	Fitch,	Mills,	Sweny,
Bingham,	Fithian,	Moffitt,	Tarney,
Blanchard,	Flick,	Moore, N. H.	Taylor, E. B.
Bland,	Forman,	Moore, Tex.	Taylor, J. D.
Blount,	Forney,	Morrill,	Thomas,
Bowden,	Fowler,	Morrow,	Thompson,
Breckinridge, Ark.	Funston,	Niedringhaus,	Tillman,
Brickner,	Gibson,	Oates,	Townsend, Colo.
Brower,	Gifford,	O'Ferrall,	Townsend, Pa.
Brown, J. B.	Goodnight,	O'Neill, Ind.	Tucker,
Browne, T. M.	Grout,	O'Neill, Pa.	Turner, Kans.
Browne, Va.	Hall,	Osborne,	Turpin,
Brunner,	Hare,	Outhwaite,	Vandever,
Bunn,	Harmer,	Owen, Ind.	Van Schaek,
Campbell,	Hatch,	Parrett,	Venable,
Candler, Ga.	Haugen,	Peel,	Waddill,
Candler, Mass.	Hayes,	Perkins,	Walker, Mass.
Carlisle,	Haynes,	Perry,	Walker, Mo.
Carter,	Heard,	Phelan,	Wallace, N. Y.
Caruth,	Henderson, N. C.	Price,	Washington,
Caswell,	Herbert,	Quackenbush,	Watson,
Catchings,	Hermann,	Raines,	Wheeler, Mich.
Cheatham,	Hitt,	Ray,	Whiting,
Clark, Wis.	Holman,	Reyburn,	Whithorne,
Cobb,	Hooker,	Richardson,	Wickham,
Cornstock,	Kerr, Pa.	Rife,	Wiley,
Conger,	Ketcham,	Rogers,	Wilkinson,
Cooper, Ind.	Kilgore,	Rowland,	Wilson, Ky.
Cooper, Ohio	Knapp,	Rusk,	Wilson, Mo.
Craig,	Lacey,	Sayers,	Wilson, W. Va.
Crain,	La Follette,	Scranton,	Wright,
Criberson, Tex.	Laidlaw,	Seney,	Yoder.

So the motion to dispense with further proceedings under the call was rejected.

Pending the roll-call the following proceedings took place:

Mr. BUTTERWORTH. Mr. Speaker, I understand that gentlemen who are paired are abstaining from voting. I submit the point of order that they are not permitted to abstain.

The SPEAKER *pro tempore*. The Chair has no control over that.

Mr. ABBOTT. I wish to state, Mr. Speaker, as I stated before, that I have declined to vote because I am paired.

Mr. TURPIN (when his name was called). Mr. Speaker—

The SPEAKER *pro tempore*. For what purpose does the gentleman rise?

Mr. TURPIN. Simply to make a statement.

The SPEAKER *pro tempore*. The gentleman can not interrupt the roll-call by an explanation.

Mr. TURPIN. I understood the Clerk to call my name for the purpose of voting.

The SPEAKER *pro tempore*. And for that purpose only. The gentleman can vote if he desires to do so.

Mr. TURPIN. May I not be allowed to explain my vote? I desire to say that I realize—

The SPEAKER *pro tempore*. The roll-call can not be interrupted by any explanation. The gentleman is not in order.

When the roll-call was concluded,

Mr. TARSNEY said: I wish to say that I am paired with the gentleman from Colorado [Mr. TOWNSEND]. Not remembering that fact on the previous call, I voted. I refrain from voting now.

Mr. MORGAN. Mr. Speaker, I am paired with the gentleman from Iowa [Mr. CONGER], but I have voted to dispense with the call of the House, as I supposed I would do him a favor by so voting.

Mr. McMILLIN. I am paired with the gentleman from Massachusetts [Mr. CANDLER], but thinking it proper to vote on this question I have voted as I suppose he would vote if here.

The following pairs were announced:

Mr. CANDLER, of Massachusetts, with Mr. McMILLIN.

Mr. DALZELL with Mr. OUTHWAITE.

Mr. STRUBLE with Mr. YODER.

Mr. PEEL. On the roll-call previous to this I voted inadvertently. I am paired with the gentleman from Minnesota [Mr. HALL].

Mr. HOOKER. I desire to vote.

The SPEAKER *pro tempore*. Was the gentleman in the Hall when his name was called and giving attention?

Mr. HOOKER. I desire to vote "ay."

The SPEAKER *pro tempore*. Was the gentleman giving attention when his name was called?

Mr. HOOKER. My name was called, but I did not observe it at the time. I was in the Hall.

The SPEAKER *pro tempore*. The Chair does not think he can entertain the gentleman's request.

Mr. HOOKER. I simply desire to make a quorum; I supposed the vote would be received on that ground.

The SPEAKER *pro tempore*. The rule prevents it.

Mr. FITHIAN. I desire to vote. I was not in the Hall when my name was called.

The SPEAKER *pro tempore*. Then the gentleman can not vote.

Mr. FITHIAN. I desire to be counted to make a quorum.

The result of the vote was announced as above stated.

Mr. ALLEN, of Mississippi. I move that we devote the balance of this evening to general debate on the state of the Union.

Mr. PAYSON. I offer the resolution which I send to the desk.

The Clerk read as follows:

*Resolved*, That until proceedings under the call now pending shall be dispensed with, all pairs shall be declared "off" and members released from all obligations thereunder.

Mr. CRISP. I raise a question of order on that.

Mr. PAYSON. What is the question of order?

Mr. CRISP. That neither this House, in its aggregate capacity, nor the rules of the House have any cognizance in any wise of pairs, except so far as the rules permit their announcement at the desk; and whether a gentleman is or is not bound by a pair is a question that must be determined by himself for himself, without the assistance of the House or any other authority.

Mr. PAYSON. On the question of order, Mr. Speaker, the decisions have been uniformly the other way.

Mr. CRISP. I beg the gentleman's pardon; I have not yielded the floor.

Mr. PAYSON. I thought the gentleman was through.

Mr. CRISP. Of course, Mr. Speaker, there might be raised the additional question that the House in its present condition can not determine any question except the question of a call of the House or the propriety of an adjournment. I am aware that it has been held that the House may adopt such resolutions as look to the procurement of the attendance of a quorum. But the other point, Mr. Speaker, is the one upon which I rely. It is not competent for this House to determine whether a member who has made a pair shall or shall not vote or whether he is bound by the pair; and this, I think, has been the uniform ruling of presiding officers of this House.

The Chair will bear in mind that when you come to ascertain a quorum the Speaker, under the existing rules, disregards pairs; he counts members who are here. Pairs are not recognized by any rule of the House except the provision which requires the Clerk to announce them once during each legislative day.

Mr. PAYSON. Two questions are presented by the objection made by the gentleman from Georgia [Mr. CRISP]. The first is the question of order as to whether or not the House of Representatives has power by the adoption of a resolution to abrogate a voluntary arrangement entered into by members whereby the balance of power in this House may remain the same and members be allowed to absent themselves.

At this point the Sergeant-at-Arms appeared at the bar, having in custody Mr. HALL.

The SPEAKER *pro tempore*. Mr. HALL, you have been absent from the sittings of the House without its leave. What excuse have you to tender?

Mr. HALL. I paired with Mr. PEEL, of Arkansas, and I went off.

The SPEAKER *pro tempore*. The gentleman states he was paired with the gentleman from Arkansas. What is the pleasure of the House?

Mr. WILLIAMS, of Ohio. I move that he be excused.

Mr. BUTTERWORTH. I wish to inquire whether the gentleman left the House after the call to-night?

Mr. HALL. No, sir.

The motion of Mr. WILLIAMS, of Ohio, to excuse Mr. HALL was agreed to.

Mr. PAYSON. The action of the House, Mr. Speaker, which has just been indulged in, properly enough under the understanding the gentleman had, illustrates the necessity for the adoption of the resolution which I have submitted. Members of the House seem to labor under an idea that by this voluntary arrangement between a gentleman on this side and one on the other side of the House they thereby present a valid excuse for absenting themselves from the Hall and remain absent from attendance here, or when they come before the House that arrangement is presented as an excuse for the contempt of being absent from the House without its leave.

It may not be improper to say, Mr. Speaker, that upon this side, and largely upon the other side, this body is not in attendance at this time of the night for the mere purpose of its own amusement. Nobody is in attendance simply for his health. We are here practically as well as in theory for the transaction of the public business of this country, and that is obstructed because of the absence, from some cause or other, of enough of the members to make a quorum.

Now, it is always in order to move any resolution or to adopt any motion when the House finds itself without a quorum which has reference to the pending call, the object being to secure the attendance of members. So far as that point is concerned, I remember in the last Congress, on a motion made by myself, Mr. Speaker CARLISLE decided that we had a right to revoke all leaves of absence, whether granted for illness or for any other cause, and without notice to the party.

Mr. BUCHANAN, of New Jersey. But that is a different thing.



Mr. PAYSON. How different? It is precisely in the same line as this; and I hold that anything is in order in reference to the call which will secure the presence of a quorum.

Mr. McMILLIN. Will the gentleman allow a question?

Mr. PAYSON. Certainly.

Mr. McMILLIN. Suppose it is competent to pass the resolution that you have submitted, and the House shall adopt it, and those gentlemen who are in my condition—I will say to the gentleman that I voted on the last call—but suppose, being paired, they decline to vote, what then?

Mr. PAYSON. If a gentleman declines to vote and refuses to perform his duty, there is no way, I agree, by which the House can compel him to do so.

Mr. McMILLIN. Hence the passage of the resolution would not advantage you in that regard.

Mr. PAYSON. But when gentlemen are in the position that the gentleman from Minnesota [Mr. HALL] has found himself in lately, the position in which he appeared a moment ago, under an agreement with a member on the other side who joined with him in a pair and refrained from attending the session of the House because of the existence of that pair, or when we see the position that was occupied, the still more absurd position, as I understand it, of the gentleman from Alabama [Mr. TURPIN], who insisted on his right to interrupt the roll-call a few moments ago to explain why he was not prepared to vote, because of the existence of a pair—I say that the adoption of a resolution of this character, which the House has undoubtedly the right and the power to adopt, if sufficient members present choose to adopt it, relieves all members from the obligation that they have voluntarily placed themselves under, and puts them in a position where they can emphasize their presence by voting, whether they choose to exercise that privilege or not.

The pair is only a voluntary measure entered into between two members. It is unknown to the rules of the House and not recognized in any manner except the mere acknowledgment of the pair provided by the rule at a certain time, a time fixed in the rule, when such arrangements between members may be announced. It has otherwise no recognition in the rules.

Mr. CRISP. If the gentleman will permit me one moment.

Mr. PAYSON. Certainly.

Mr. CRISP. I want, just by asking a question of the gentleman, to appeal to the judgment of my friend himself on this question. Suppose the gentleman from Illinois was paired with me on all political questions and I was sick at home, would the gentleman from Illinois recognize the authority of this House to revoke that pair and force him to vote?

Mr. PAYSON. I have no doubt of the power of the House to abrogate any such arrangement.

Mr. CRISP. To abrogate an honorable arrangement between members?

Mr. PAYSON. Because I answer the gentleman no member has a right to make an agreement with the other members of the House by which the action of the House of Representatives can be throttled. That power does not reside in any individual member of the House; otherwise every act of legislation might be prevented and the rules of the House for the transaction of the public business nullified.

Mr. CRISP. If my friend will permit me, he is confusing the power of the House to make leaves of absence, which are obtained only by the assent of the House and the revocation of which makes it the duty of the member to return to the House, with the individual rights of the members. But the question of pairs between individual members is a just and honorable arrangement made to suit their own convenience, though not recognized by the rules, by which gentlemen protect each other in the transaction of their own business; and so far as that involves any conflict with the transaction of public business, if at all, that is a question between the member and his constituents, and not between him and the House.

Mr. PAYSON. But are gentlemen to come here and under the assumed obligation of a pair go in and out of that door, though it be constructively closed during the call of the House, and descend to the basement of the Capitol, and enter the refreshment-room there, with a feeling that they have no further interest in the proceedings of the House because of the existence of the pair? Now if the pairs are revoked nothing of that kind could be allowed, and, the Journal and the RECORD not showing that they are paired, they are bound to be present and act in some capacity. It will be an incentive to the performance of the duty which the law imposes upon the members, and for that reason I ask the adoption of the resolution.

Mr. CRISP. Mr. Speaker, before my friend sits down I want to ask the gentleman from Illinois just one further question. The gentleman from Illinois does not hold that because a member is paired the Sergeant-at-Arms, upon the order of my friend from Ohio which has been adopted, should arrest him?

Mr. PAYSON. I think he should arrest him. I do not think a pair is obligatory at all.

Mr. CRISP. It is the purpose, I suppose, of the gentleman from Illinois to get a legislative declaration that members should not pair.

Mr. PAYSON. And that no obligation should grow out of the fact that he is paired.

Mr. CRISP. Now, is it contended that this House could do an act affecting the gentleman from Illinois and myself, who have been paired?

Mr. PAYSON. As between the gentlemen, no. But in a broader and higher sense, in the performance of a duty, the onus for the performance of that public duty ought to be weightier upon the members of this House than obligations between themselves.

Mr. CRISP. Ah, but, Mr. Speaker, there can not be any higher responsibility that I know of than that between man and man, when it is a voluntary obligation between a man and his friend. [Applause on the Democratic side.] And when it comes to the question of whether or not a member shall vote in this House, his responsibility is to his constituency, and to them alone.

Mr. PAYSON. No, sir; his higher duty is to the nation.

Mr. CRISP. Ah, Mr. Speaker, I repudiate any such modern doctrine as that. He is responsible to his constituency, and to nobody else.

Mr. PAYSON. I have said all I desire to say, Mr. Speaker.

Mr. REILLY. Will the gentleman from Illinois allow a question?

Mr. PAYSON. I will allow the gentleman such time as he likes.

Mr. REILLY. I desire to call the attention of the gentleman to clause 3, Rule XV.

Mr. PAYSON. I am familiar with the rule.

Mr. REILLY. It authorizes the Speaker of the House to count a member as present who does not vote. Now, that rule does away with the necessity of this resolution.

Mr. PAYSON. But does not the gentleman know, and has he not observed, that every excuse rendered for non-attendance is because the member is under the apprehension that because he had paired he was not under any obligation to appear?

Mr. REILLY. If a member is present and refuses to vote, what then?

The Sergeant-at-Arms appeared in the area in front of Speaker's desk and said:

Mr. Speaker, I have the honor to report the arrival of the Hon. S. S. YODER, of Ohio.

THE SPEAKER *pro tempore* (to Mr. YODER). You have been absent from the sitting of the House without its leave. What excuse have you to offer?

Mr. YODER. I was not aware—

Mr. CLUNIE. Mr. Speaker, we can not hear a word that is said, and as we have to vote upon this I ask that order be restored.

THE SPEAKER *pro tempore*. The House will come to order.

When order had been restored,

Mr. YODER said: I was not aware that there was a call of the House, and I came back here as soon as I found that the House was in session. Nobody had notified me. I saw the light in the Dome and returned. I went home to dinner; I was not arrested, but came back voluntarily.

THE SPEAKER *pro tempore*. Under the rule of the House the gentleman can give his name to the Clerk and it will be entered on the roll.

Mr. CRISP. I suggest, Mr. Speaker, that the Sergeant-at-Arms should not report the gentleman this way under the rule.

THE SPEAKER *pro tempore*. The Chair recognizes the gentleman from Illinois [Mr. PAYSON].

Mr. PAYSON. I have said all I desire to say in reference to the resolution.

Mr. SPINOLA. Mr. Speaker, the House for over three hours has sat here in great anxiety to listen to some oratory. Opportunity did not present itself until within the last ten or fifteen minutes, when my friend from Illinois explained his resolution. That has allowed the House to listen to a few good speeches, one from my friend from Georgia, A No. 1, and one from my friend from Illinois which I think is all wrong.

Mr. WILLIAMS, of Ohio. A No. 2.

Mr. SPINOLA. Yes; A No. 2. [Laughter.]

Now, sir, I call the attention of the Chair to this fact, that in the early part of the evening I asked to take up a bill in the name of Bunker Hill [laughter]—to take it up and consider the question here, but the Chair ruled that no business could be entertained or considered of any character whatever during the pendency of the call of the House. Now, sir, this resolution is no more in order and the House has no more right to consider it, under the ruling of the Chair an hour or two ago, than it had to consider my motion.

A MEMBER. Go on with Bunker Hill, then.

Mr. ALLEN, of Mississippi. Will the gentleman allow me to ask him a question?

Mr. SPINOLA. Undoubtedly.

Mr. ALLEN, of Mississippi. I would like to know what there is in the Bunker Hill business, so as to know whether or not you are right or not. [Laughter.]

Mr. SPINOLA. I will tell you what there is in the Bunker Hill business. I stand here before this House and before the whole country as an advocate of the measure.

A MEMBER. What is the measure?

Another MEMBER. How long is it?

Mr. SPINOLA. I want to answer the question of the gentleman



from Mississippi, if I may be allowed to do so while the Chair is looking up the authority. [Great laughter.]

Mr. BUTTERWORTH. Mr. Speaker, I think there is a quorum present, and I ask the Chair to ascertain the fact.

Mr. SPINOLA. Mr. Speaker, if there is a quorum present I will suspend Bunker Hill for to-night. [Laughter.] If there is a quorum Bunker Hill will keep.

Mr. McCLAMMY. Why should Bunker Hill come in ahead of the Fayetteville public building? [Laughter.]

Mr. BUTTERWORTH. If it is in order I would like to have a count of the House. I take it that it is entirely proper for the Chair to ask members to come within the bar of the House in order that the presence of a quorum may be determined.

The SPEAKER *pro tempore*. The pending question is on the motion of the gentleman from Illinois [Mr. PAYSON], upon which the point of order is made by the gentleman from Georgia [Mr. CRISP].

Mr. PAYSON. I will withdraw that resolution, Mr. Speaker, in view of the request of the gentleman from Ohio that the Chair shall count the House.

The SPEAKER *pro tempore*. The House has just voted upon the motion to dispense with all further proceedings under the call and has decided that question in the negative, and there the question rests.

Mr. SPRINGER. I move that the House do now adjourn. The question was taken on the motion to adjourn; and there were—ayes 64, noes 93.

Mr. BUTTERWORTH. I demand tellers. Tellers were ordered; and the Speaker *pro tempore* appointed Mr. SPRINGER and Mr. BUTTERWORTH.

The House again divided; and the tellers reported—ayes 58, noes 94. So the House refused to adjourn.

Mr. BUTTERWORTH. I move to dispense with all further proceedings under the call of the House. The motion was agreed to.

The SPEAKER *pro tempore*. The question recurs on the motion of the gentleman from Ohio [Mr. BUTTERWORTH], demanding the previous question on the pending bill and amendments.

Mr. BYNUM. Mr. Speaker, is the House in a condition to legislate when a quorum has failed to appear?

The SPEAKER *pro tempore*. That will be determined on this vote. All further proceedings under the call have been dispensed with and the question recurs on the motion of the gentleman from Ohio [Mr. BUTTERWORTH] on ordering the previous question on the bill and amendments.

The question was taken; and the Speaker *pro tempore* declared that the ayes seemed to have it.

Mr. BYNUM. I ask for a division. The House divided; and there were—ayes 136, noes 10.

Mr. BYNUM. No quorum. The SPEAKER *pro tempore*. Does the gentleman make the point that there is no quorum present.

Mr. BYNUM. I make the point that there is no quorum present and also that there is no quorum voting.

The SPEAKER *pro tempore*. The Chair overrules the point that no quorum has voted. The Chair will ascertain whether there is a quorum present.

Mr. BUTTERWORTH. Pending the count, Mr. Speaker, I call attention to the fact that there are several gentlemen in the cloak-room absenting themselves.

Mr. BYNUM. The Speaker can see them through the walls. Mr. BUTTERWORTH. Or they can come in and be counted.

Mr. CRISP. I think the gentleman from Ohio is mistaken in supposing that there are members in the cloak-room.

The SPEAKER *pro tempore* (after the count). There are present 167 members. [Applause on the Republican side.]

Mr. BYNUM. I demand tellers upon the vote. [Cries of "Dilation!" and "Too late!" on the Republican side.]

The SPEAKER *pro tempore*. A quorum is present. Upon this question the yeas are 136, and the noes are 10—

Mr. BYNUM. I demand tellers. The SPEAKER *pro tempore*. The gentleman from Indiana demands tellers.

Mr. PAYSON. I rise to a parliamentary inquiry. What right has the gentleman to demand tellers upon a count by the Speaker? That question has been settled over and over again since the adoption of the rules, if the Speaker please, and it is too late for the gentleman to demand tellers upon the vote.

The SPEAKER *pro tempore*. The Clerk will report the rule. The Clerk read as follows:

5. He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: "As many as are in favor (as the question may be) say ay;" and after the affirmative voice is expressed, "As many as are opposed say no;" if he doubts or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative; if he still doubts or a count is required by at least one-fifth of a quorum, he shall name one from each side of the question, to tell the members in the affirmative and negative; which being reported, he shall rise and state the decision.

Mr. PAYSON. Now, Mr. Speaker, the parliamentary situation, as I understand it, is this: The question was put by the Chair upon the

pending question. A division was demanded. A majority appeared in favor of the proposition, but, upon the telling by the Speaker, less than a quorum was developed, and thereupon the gentleman from Indiana [Mr. BYNUM] rose and made two points: first, that no quorum had voted and, second, that no quorum was present.

The first point was overruled by the Chair, and upon the second point made by the gentleman from Indiana the Chair, under the rules, proceeded to count the members present to ascertain whether or no a quorum was actually present. Upon the last question, Mr. Speaker, no right exists on the part of a member to demand tellers to verify a count by the Chair. The count by the Speaker is conclusive of that under the rule.

Mr. BYNUM. Not by any means. The SPEAKER *pro tempore*. But the Chair does not understand the gentleman from Indiana demanded tellers upon the count by the Speaker. The Chair understood that he demanded tellers upon the motion for the previous question on the bill and amendments.

Mr. BYNUM. That is correct. Mr. PAYSON. Well, that demand comes too late.

Mr. McMILLIN. But, Mr. Speaker, that is a means of ascertaining whether the requisite vote has been had. As soon as the action according to the Speaker's ruling had been announced, the gentleman from Indiana demanded tellers. Now, as to whether the Speaker counted correctly or not, the House has a right further to have tellers on the vote.

Mr. PAYSON. One further suggestion. The right to demand tellers upon a division of this House must be exercised, if at all, before any other business intervenes, before any subsequent parliamentary action is taken upon any other question. And when the gentleman from Indiana made the point that no quorum was present and insisted upon the Speaker exercising his power under the rule of determining whether or not a quorum was actually present, he waived the right he had to verify by tellers the vote on which the House had divided. To me this question is as plain as that two and two make four.

Mr. McMILLIN. That right is given in addition to the one heretofore possessed, and not to its exclusion.

Mr. PAYSON. But it must be exercised in the first instance, if exercised at all.

Mr. McMILLIN. There is no statement in the rule to that effect. The SPEAKER *pro tempore*. This question arises on the motion of the gentleman from Ohio [Mr. BUTTERWORTH] for the previous question.

Mr. BYNUM. I would like to be heard for just a moment. The SPEAKER *pro tempore*. The Chair is prepared to rule on the question.

Mr. BYNUM. I would like to make a simple statement of fact. Mr. CANNON. I object.

The SPEAKER *pro tempore*. This question comes up under the motion of the gentleman from Ohio for the previous question on the bill and amendments. That question was put to the House and the Chair declared the ayes seemed to have it, whereupon a division was demanded, and the vote on division was declared to be 136 in the affirmative and 10 in the negative. Thereupon the gentleman from Indiana made the point that no quorum had voted and that no quorum was present. The Chair overruled the point of order that no quorum had voted, and to ascertain whether a quorum was present proceeded to count the House. Upon counting the House the Chair found 167 members present and overruled the second point of order. Thereupon the gentleman from Indiana demanded tellers. Against this demand the gentleman from Illinois makes the point of order that the demand comes too late and that the right to demand tellers has been waived.

The Chair thinks the point of order is not well taken. Upon the division, a quorum not having voted, it was the right of any member to make the point that a quorum was not present and arrest all proceedings until that fact could be ascertained. Upon the ascertainment of that fact, and a quorum found to be present, it was the right of the House to have either tellers or the yeas and nays on the pending motion for the previous question.

The Chair therefore overrules the point of order. Several MEMBERS. That is right.

The question being taken on ordering tellers, they were ordered; and Mr. BYNUM and Mr. BUTTERWORTH were appointed.

The House again divided; and the tellers reported—ayes 136, noes 7.

Mr. BYNUM. No quorum. Mr. BUTTERWORTH. I call for the yeas and nays.

The yeas and nays were ordered. The SPEAKER *pro tempore*. The pending question is on the motion of the gentleman from Ohio to order the previous question on the bill and amendments.

The question was taken; and there were—yeas 141, nays 21, not voting 167; as follows:

YEAS—141.

Adams,	Baker,	Bellknop,	Brewer,
Allen, Mich.	Bankhead,	Bliss,	Brosius,
Allen, Miss.	Barnes,	Boatner,	Buchanan, N. J.
Anderson, Kans.	Beckwith,	Boothman,	Burrows,
Arnold,	Belden,	Boutelle,	Burton,



Butterworth,	Gest,	Miles,	Smith, Ill.
Caldwell,	Greenhalge,	Milliken,	Smyser,
Cannon,	Grosvenor,	Morey,	Spinola,
Catchings,	Hall,	Morgan,	Spooner,
Cheadle,	Hansbrough,	Morrill,	Springer,
Chipman,	Haugen,	Morse,	Stewart, Ga.
Clancy,	Hemphill,	Mudd,	Stewart, Vt.
Clarke, Ala.	Henderson, Ill.	Norton,	Stivers,
Clements,	Henderson, Iowa	Nute,	Stockdale,
Cogswell,	Hill,	O'Donnell,	Struble,
Coleman,	Hooker,	O'Neil, Mass.	Sweeney,
Connell,	Hopkins,	Owens, Ohio	Tarsney,
Cothran,	Houk,	Payne,	Taylor, Ill.
Covert,	Kelley,	Payson,	Taylor, Tenn.
Cowles,	Kennedy,	Peters,	Thomas,
Culbertson, Pa.	Kerr, Iowa	Pickler,	Tracey,
De Lano,	Kinsey,	Post,	Turpin,
Dingley,	La Follette,	Pugsley,	Van Schaick,
Dockery,	Lansing,	Quinn,	Wade,
Dolliver,	Laws,	Randall,	Wallace, Mass.
Dorsey,	Lehlbach,	Reed, Iowa	Wheeler, Ala.
Dunnell,	Lewis,	Reilly,	Wickham,
Elliott,	Lind,	Robertson,	Wike,
Ewart,	Lodge,	Rockwell,	Willcox,
Farquhar,	McAdoo,	Rowell,	Williams, Ohio,
Featherston,	McCarthy,	Russell,	Wilson, Wash.
Flood,	McClammy,	Sanford,	Yardley,
Flower,	McClellan,	Sawyer,	Yoder.
Frank,	McCord,	Scranton,	
Gear,	McCreary,	Scull,	
Geissenhainer,	McMillin,	Simonds,	

## NAYS—21.

Brookshire,	Cummings,	Martin, Tex.	Pierce,
Buchanan, Va.	Edmunds,	McRae,	Turner, Ga.
Buckalew,	Fithian,	Montgomery,	Williams, Ill.
Bullock,	Henderson, N. C.	Mutchler,	
Bynum,	Lester, Ga.	Peel,	
Crisp,	Martin, Ind.	Pennington,	

## NOT VOTING—167.

Abbott,	Craig,	Lane,	Senev,
Alderson,	Crain,	Lanham,	Sherman,
Anderson, Miss.	Culbertson, Tex.	Lawler,	Shively,
Andrew,	Cutcheon,	Lee,	Skinner,
Atkinson, Pa.	Dalzell,	Lester, Va.	Smith, W. Va.
Atkinson, W. Va.	Dargan,	Magner,	Snider,
Banks,	Darlington,	Malsh,	Stahlnecker,
Bartine,	Davidson,	Mansur,	Stephenson,
Barwig,	De Haven,	Mason,	Stewart, Tex.
Bayne,	Dibble,	McComas,	Stockbridge,
Bergen,	Dunphy,	McCormick,	Stone, Ky.
Biggs,	Ellis,	McKenna,	Stone, Mo.
Bingham,	Enloe,	McKinley,	Stump,
Blanchard,	Evans,	Mills,	Taylor, E. B.
Bland,	Finley,	Moffitt,	Taylor, J. D.
Blount,	Fitch,	Moore, N. H.	Thompson,
Bowden,	Flick,	Moore, Tex.	Tillman,
Breckinridge, Ark.	Forman,	Morrow,	Townsend, Colo.
Breckinridge, Ky.	Forney,	Niedringhaus,	Townsend, Pa.
Brickner,	Fowler,	Oates,	Tucker,
Brower,	Funston,	O'Ferrall,	Turner, Kans.
Brown, J. B.	Gibson,	O'Neill, Ind.	Turner, N. Y.
Browne, T. M.	Gifford,	O'Neill, Pa.	Vander,
Browne, Va.	Goodnight,	Osborne,	Venable,
Brunner,	Grimes,	Outhwaite,	Waddill,
Bunn,	Grout,	Owen, Ind.	Walker, Mass.
Campbell,	Hare,	Parrett,	Walker, Mo.
Candler, Ga.	Harmer,	Paynter,	Wallace, N. Y.
Candler, Mass.	Hatch,	Perkins,	Washington,
Carlisle,	Hayes,	Perry,	Watson,
Carlton,	Haynes,	Phelan,	Wheeler, Mich.
Carter,	Heard,	Price,	Whiting,
Caruth,	Herbert,	Quackenbush,	Whithorne,
Caswell,	Hermann,	Raipnes,	Wiley,
Cheatham,	Hitt,	Ray,	Wilkinson,
Clark, Wis.	Holman,	Reyburn,	Wilson, Ky.
Clunie,	Kerr, Pa.	Richardson,	Wilson, Mo.
Cobb,	Ketcham,	Rife,	Wilson, W. Va.
Comstock,	Kilgore,	Rogers,	Wright.
Conger,	Knapp,	Rowland,	
Cooper, Ind.	Lacey,	Rusk,	
Cooper, Ohio,	Laidlaw,	Sayers,	

Before the result of the vote was announced, the following proceedings took place:

Mr. LA FOLLETTE. I am paired with the gentleman from Texas [Mr. MILLS]. I have responded to my name for the purpose only of making a quorum.

Mr. MORGAN. I am paired with the gentleman from Iowa [Mr. CONGER], but have voted with the understanding that it would be agreeable to him.

Mr. HOPKINS. I move that the recapitulation of the names be dispensed with.

Objection was made.

The roll-call having been recapitulated,

The SPEAKER *pro tempore* said: On this question the yeas are 141, the nays 20. The Clerk, under the direction of the Chair, has indicated the following members as present and not responding to their names when called: Mr. ABBOTT, Mr. BRECKINRIDGE of Kentucky, Mr. DEHAVEN, Mr. ENLOE, and Mr. GOODNIGHT. Those voting, together with those present and not voting, constitute a quorum. The yeas have it; so the previous question is ordered on the bill and pending amendments. [Applause on the Republican side.]

The SPEAKER *pro tempore*. The first question is on the amendments.

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

The motion was agreed to; and accordingly (at 11 o'clock p. m.) the House adjourned.

## EXECUTIVE AND OTHER COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following communication was taken from the Speaker's table and referred as follows:

## INCREASED APPROPRIATION FOR PROTECTING THE PUBLIC LANDS.

Letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of the Interior, increasing the estimate on page 230 of the Book of Estimates for the fiscal year 1891 for "Protecting the public lands"—to the Committee on Appropriations.

## SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions of the following titles were taken from the Speaker's table and referred as follows:

A bill (S. 1032) to reimburse the State of Washington for expenses incurred in holding a constitutional convention, convening in July, 1889—to the Committee on the Territories.

A bill (S. 1318) to reimburse the State of South Dakota for the expenses incurred in holding the constitutional convention of 1885—to the Committee on the Territories.

A bill (S. 1869) for the erection of an equestrian statue of Maj. Gen. John Stark—to the Committee on the Library.

A bill (S. 2912) providing for a commission to ascertain and report certain facts relating to the Puyallup Indian reservation in Washington, and to determine the northern boundary of the Warm Springs Indian reservation, in Oregon, and making an appropriation therefor—to the Committee on Indian Affairs.

A bill (S. 3043) to amend and further extend the benefit of the act approved February 8, 1887, entitled "An act to provide for the allotment of land in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States over the Indians, and for other purposes"—to the Committee on Indian Affairs.

A bill (S. 3080) providing for the construction of a military storehouse and offices for Army purposes at the Omaha military depot, Nebraska, and for other purposes—to the Committee on Military Affairs.

A bill (S. 3472) for improving Aransas Pass—to the Committee on Rivers and Harbors.

A bill (S. 3581) constituting Gladstone, in the State of Michigan, a port of delivery in the customs-collection district of Superior—to the Committee on Commerce.

A joint resolution (S. 26) to print 20,000 copies of the special report of the Commissioner of Labor on the statistics of and relating to marriage and divorce—to the Committee on Printing; and

A joint resolution (S. 77) to fill vacancies existing in the Board of Regents of the Smithsonian Institution—to the Committee on the Library.

## SENATE RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, the following Senate resolution was taken from the Speaker's table and referred as follows:

*Resolved by the Senate (the House of Representatives concurring), That there be ordered by the Government Printing Office, in addition to the number already ordered by law, 2,000 copies of the History of the Washington Navy-Yard, prepared by Chaplain Hibben, of the United States Navy, to be bound in cloth, 500 of which shall be for the use of the Senate, 1,000 for the use of the House of Representatives, and 500 copies for distribution by the Secretary of the Navy;*

to the Committee on Printing.

## REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII, reports of committees were delivered to the Clerk and disposed of as follows:

Mr. FLICK, from the Committee on Invalid Pensions, reported with amendment the bill of the Senate (S. 2954) granting a pension to Charles A. Norton—to the Committee of the Whole House.

Mr. VAN SCHAICK, from the Committee on Public Buildings and Grounds, reported with amendment the bill of the Senate (S. 3079) to provide for the purchase of a site and the erection of a public building thereon at Grand Haven, in the State of Michigan—to the Committee of the Whole House on the State of the Union.

Mr. BROSIUS, from the Committee on Private Land Claims, reported favorably the bill of the House (H. R. 1065) to confirm to Lucretia Williams the title to one square league of land in the State of Louisiana—to the Committee of the Whole House.

Mr. HITT, from the Committee on Foreign Affairs, reported a bill of the House (H. R. 9748) to give effect to the eighth article of the treaty of commerce and navigation concluded between the United States and Sweden and Norway on the 4th of July, 1827—to the Committee of the Whole House on the state of the Union.

Mr. KERR, of Iowa, from the Committee on Public Buildings and Grounds, reported with amendment the bill of the House (H. R. 356) for the erection of a public building at Newton, Kans.—to the Committee of the Whole House on the state of the Union.



Mr. MILLIKEN, from the Committee on Public Buildings and Grounds, reported favorably the following resolution of the House:

*Resolved*, That the heads of the several Executive Departments of the Government be, and they are hereby, required to inform this House of the number of telephones now in use in their respective Departments, bureaus, and offices, the annual rental paid for each instrument, the cost of maintaining said instruments, if any, and the amount paid to employes of the Government who are employed or assigned to duty in whole or in part as telephone operators; to the House Calendar.

He also, from the same committee, reported favorably the following resolution of the House:

*Resolved*, That the carpenter of the House be directed to provide the necessary shelving for the House document-room; and the Clerk of the House is hereby authorized to pay for the same from the contingent fund of the House; to the Committee of the Whole House on the state of the Union.

Mr. NUTE, from the Committee on Invalid Pensions, reported favorably the following bills; which were severally referred to the Committee of the Whole House:

- A bill (H. R. 2279) granting a pension to Abram W. Jackson;
- A bill (H. R. 6048) granting a pension to Mary Robinson;
- A bill (H. R. 9132) granting a pension to Lydia Hood;
- A bill (S. 1238) granting a pension to Daniel Donovan;
- A bill (S. 1048) granting a pension to Lloyd H. Snell;
- A bill (S. 1184) to pension Mrs. Theodora M. Piatt; and
- A bill (S. 1817) granting a pension to Mary F. Hopkins.

Mr. NUTE also, from the Committee on Invalid Pensions, reported with amendment the following bills of the House; which were severally referred to the Committee of the Whole House:

- A bill (H. R. 6809) granting a pension to Nancy M. Gross; and
- A bill (H. R. 4686) granting a pension to Hannah Bedford.

Mr. BELKNAP, from the Committee on Invalid Pensions, reported favorably the following bills; which were severally referred to the Committee of the Whole House:

- A bill (H. R. 7910) granting a pension to John T. Ballard;
- A bill (H. R. 1186) granting a pension to John O. Mathis;
- A bill (H. R. 9111) granting a pension to Bridget Foley;
- A bill (H. R. 8440) granting a pension to Mrs. Henrietta M. Gregg;
- A bill (H. R. 5239) granting a pension to Mrs. Mary Hyde;
- A bill (H. R. 2434) granting a pension to Franc E. Babbitt;
- A bill (H. R. 9019) granting a pension to Emma Fulton;
- A bill (H. R. 3970) granting an increase of pension to William A. Thomas;

- A bill (H. R. 8445) granting a pension to Solomon Smith;
- A bill (H. R. 7574) granting a pension to Mrs. Leonora Coon;
- A bill (H. R. 9353) granting a pension to Dwight Parker;
- A bill (S. 2766) granting a pension to John McLaren;
- A bill (S. 1928) for the relief of Henrietta E. Boggs; and
- A bill (S. 1356) granting increase of pension to Daniel H. Kent.

Mr. BELKNAP also, from the Committee on Invalid Pensions, reported with amendment the following bills of the House; which were severally referred to the Committee of the Whole House:

- A bill (H. R. 2431) granting a pension to Mary H. Curtis;
- A bill (H. R. 6635) for the relief of George R. Wright;
- A bill (H. R. 6663) for the relief of James S. Smith; and
- A bill (H. R. 2415) granting a pension to Nancy Casey.

Mr. LEWIS, from the Committee on Invalid Pensions, reported favorably the bill of the House (H. R. 9008) to increase the pension of Zo S. Cook, of Wilcox County, Alabama—to the Committee of the Whole House.

Mr. POST, from the Committee on Public Buildings and Grounds, reported with amendment the bill of the Senate (S. 2999) to provide for the construction of a public building at Fremont, Ohio—to the Committee of the Whole House on the state of the Union.

Mr. DE LANO, from the Committee on the District of Columbia, reported with amendment the bill of the House (H. R. 5967) to provide for the purchase of a site and erection of buildings for the girls' reform school of the District of Columbia—to the Committee of the Whole House on the state of the Union.

Mr. WADE, from the Committee on Labor, reported with amendment the bill of the House (H. R. 3928) to prevent the employment of convict labor upon the construction or repair of any building, house, or other structure belonging to the United States—to the House Calendar.

He also, from the same committee, reported favorably the bill of the House (H. R. 3286) to prevent the product of convict labor from being furnished to or for the use of any department of the Government, and to prevent the product of convict labor from being used upon public buildings or other public works—to the House Calendar.

#### ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and disposed of as follows:

By Mr. REED, of Iowa, from the Committee on the Judiciary, on the bill (H. R. 260) imposing punishment for counterfeiting, etc., trademarks, labels, etc.—ordered to be printed and referred to the House Calendar.

By Mr. BUNN, from the Committee on Claims, on the bill (H. R. 1048) for the relief of Dr. W. S. Hosack—laid on the table.

#### BILLS AND JOINT RESOLUTIONS.

Under clause 3 of Rule XXII, bills of the following titles were introduced, severally read twice, and referred as follows:

By Mr. HEMPHILL (by request): A bill (H. R. 9747) to provide a permanent system of highways in that part of the District of Columbia not included within the cities of Washington and Georgetown—to the Committee on the District of Columbia.

By Mr. DUBOIS: A bill (H. R. 9749) amending an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1889, and for other purposes"—to the Select Committee on Irrigation of Arid Lands in the United States.

By Mr. SMITH, of Arizona: A bill (H. R. 9750) to repeal that clause of the act of October 2, 1888, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1889," which reserves arid lands from entry and sale—to the Select Committee on Irrigation of Arid Lands in the United States.

By Mr. GOODNIGHT: A bill (H. R. 9751) admitting free of duty all imports taken in exchange for agricultural commodities and domestic animals of the United States—to the Committee on Ways and Means.

By Mr. BLAND: A bill (H. R. 9752) to admit free of duty goods, wares, and merchandise purchased in foreign countries with farm products of this country—to the Committee on Ways and Means.

By Mr. STOCKBRIDGE (by request): A bill (H. R. 9753) to amend section 1754, Title XIX, of the Revised Statutes—to the Committee on Invalid Pensions.

By Mr. CARTER: A bill (H. R. 9754) to amend that portion of the act of October 2, 1888, entitled "An act making appropriations for sundry civil expenses of the Government," etc., relating to the reservation of certain public lands from entry—to the Committee on the Public Lands.

By Mr. VANDEVER: A bill (H. R. 9755) granting to the Madera irrigation district in Fresno County, California, certain sites for reservoirs for irrigation purposes, together with the use of the water thereon, and for other purposes—to the Select Committee on Irrigation of Arid Lands in the United States.

Also, a bill (H. R. 9756) for the construction of reservoirs for irrigation purposes for the Madera irrigation district, in Fresno County, California—to the Select Committee on Irrigation of Arid Lands in the United States.

By Mr. WADE: A bill (H. R. 9757) placing Missouri State militia who were in actual service under command of United States officers during war of 1861, known as the war of the rebellion, upon the same footing as United States soldiers in the matter of pensions—to the Committee on Invalid Pensions.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the following changes of reference were made:

A bill (H. R. 9426) for the relief of Joseph C. Hogan—Committee on the Post-Office and Post-Roads discharged, and referred to the Committee on Claims.

A bill (H. R. 9319) granting relief to J. K. Botsford, of Wheeling, W. Va., for damages done to property by United States troops during the late war—Committee on Claims discharged, and referred to the Committee on War Claims.

#### PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills of the following titles were presented and referred as indicated below:

By Mr. ABBOTT: A bill (H. R. 9758) for the relief of James B. Barry—to the Select Committee on Indian Depredation Claims.

By Mr. ALLEN, of Michigan: A bill (H. R. 9759) to pension William C. Brown—to the Committee on Invalid Pensions.

By Mr. BINGHAM: A bill (H. R. 9760) granting a pension to Adelaide Simmons—to the Committee on Invalid Pensions.

Also, a bill (H. R. 9761) for the relief of Matilda Caldwell (late Matilda Sparks)—to the Committee on Invalid Pensions.

By Mr. BLAND: A bill (H. R. 9762) to place on the pension-rolls Mrs. Margaret Seba, widow of Henry Seba—to the Committee on Invalid Pensions.

By Mr. BLISS: A bill (H. R. 9763) granting a pension to Tunis S. Danforth—to the Committee on Invalid Pensions.

By Mr. BRECKINRIDGE, of Kentucky: A bill (H. R. 9764) for the relief of Ann Stewart, administratrix of William A. Stewart, deceased—to the Committee on War Claims.

By Mr. CHEADLE: A bill (H. R. 9765) to correct the military record of George A. Marks—to the Committee on Military Affairs.

By Mr. EDMUNDS: A bill (H. R. 9766) for the relief of Arthur Connell, of Lynchburgh, Va.—to the Committee on War Claims.

By Mr. GEAR: A bill (H. R. 9767) granting an increase of pension to John S. Ferguson, of Keokuk, Iowa—to the Committee on Invalid Pensions.

By Mr. GROSVENOR: A bill (H. R. 9768) granting a pension to Joseph D. Fisher—to the Committee on Invalid Pensions.



By Mr. HOUK: A bill (H. R. 9769) for the relief of Cisco Turner—to the Committee on Pensions.

Also, a bill (H. R. 9770) for the relief of Cisco Turner—to the Committee on War Claims.

By Mr. LANSING: A bill (H. R. 9771) for the relief of Charles B. Call—to the Committee on War Claims.

By Mr. MAGNER: A bill (H. R. 9772) for the relief of Margaret Malloy—to the Committee on Invalid Pensions.

By Mr. MILLIKEN: A bill (H. R. 9773) granting a pension to Samuel S. Farnham—to the Committee on Invalid Pensions.

Also, a bill (H. R. 9774) granting a pension to Richard H. Orcutt—to the Committee on Invalid Pensions.

By Mr. MONTGOMERY: A bill (H. R. 9775) for the relief of Mrs. E. S. Golladay and Mrs. J. W. Bowling—to the Committee on Claims.

By Mr. PAYNTER: A bill (H. R. 9776) granting a pension to Elizabeth Forman—to the Committee on Invalid Pensions.

By Mr. RAY (by request): A bill (H. R. 9777) for the relief of James Grace—to the Committee on Claims.

By Mr. SMITH, of Illinois: A bill (H. R. 9778) to grant a pension to Elewett Bain, who was a teamster for the United States forces in the war with Mexico—to the Committee on Pensions.

By Mr. STEWART, of Georgia: A bill (H. R. 9779) granting a pension to Mrs. Lydia W. Atkinson—to the Committee on Pensions.

By Mr. STIVERS: A bill (H. R. 9780) for the relief of Uriah M. Brodhead; late of Company B, One hundred and forty-third Regiment, New York State Volunteers—to the Committee on Military Affairs.

By Mr. STONE, of Kentucky: A bill (H. R. 9781) for the relief of William T. Coleman—to the Committee on Military Affairs.

By Mr. TAYLOR, of Tennessee: A bill (H. R. 9782) granting a pension to Elijah Kilday—to the Committee on Invalid Pensions.

By Mr. TRACEY: A bill (H. R. 9783) granting a pension to Mary Ferguson—to the Committee on Invalid Pensions.

By Mr. WHEELER, of Alabama: A bill (H. R. 9784) for the relief of the heirs of Samuel H. Allison—to the Committee on War Claims.

Also, a bill (H. R. 9785) for the relief of James M. Hankins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 9786) for the relief of J. W. Miller—to the Committee on War Claims.

Also, a bill (H. R. 9787) for the relief of Ami Simmons—to the Committee on Invalid Pensions.

By Mr. WILLIAMS, of Illinois: A bill (H. R. 9788) for the relief of William P. Fowler—to the Committee on Military Affairs.

By Mr. WILSON, of West Virginia: A bill (H. R. 9789) granting a pension to Jane W. Laidley—to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1, Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ABBOTT: Petition of citizens of Fort Worth, Tex., asking the perpetuation of the national-banking system—to the Committee on Banking and Currency.

By Mr. ALLEN, of Michigan: Petition of J. B. Nutten and 80 others, citizens of Hillsdale County, Michigan, in favor of the passage of the Cullom bill, so called—to the Committee on Agriculture.

By Mr. BELDEN: Petition of citizens of Syracuse, on the McKinley bill and against the tin-plate proposition therein—to the Committee on Ways and Means.

Also, petition of citizens of New York, in regard to H. R. 8278—to the Committee on Commerce.

By Mr. BELKNAP: Petition of cigar manufacturers of Grand Rapids, Mich., against tobacco schedule F of tariff bill as proposed—to the Committee on Ways and Means.

By Mr. BLAND: Petition and papers to accompany bill for relief of Mrs. Margaretta Seba, widow of Henry Seba—to the Committee on Invalid Pensions.

By Mr. BLISS: Petition of Clarence L. Judd and 120 others, leading business men of Saginaw, Mich., praying for the perpetuation of the national-banking system—to the Committee on Banking and Currency.

By Mr. BOOTHMAN: Petition of Central Grange of Wood County, favoring free sugar with a bounty to producers—to the Committee on Ways and Means.

By Mr. BRECKINRIDGE, of Kentucky: Petition of H. P. Montgomery, Warren Clayton, and numerous others, citizens of Scott County, Kentucky, for the passage of law for the perpetuation of the national-banking system—to the Committee on Banking and Currency.

By Mr. BURTON: Petition of 376 honorably discharged soldiers and sailors, in favor of a service pension—to the Committee on Invalid Pensions.

By Mr. CARUTH: Protest of citizens of Louisville, Ky., against H. R. 8278, to amend the interstate-commerce law—to the Committee on Commerce.

Also, papers to accompany H. R. 8411, granting a pension to Margaret Figg—to the Committee on Invalid Pensions.

By Mr. CASWELL: Petition of J. S. Partridge and 52 others, praying for amendment to the national-bank act so as to secure a permanent circulation—to the Committee on Banking and Currency.

Also, petition of citizens of New Mexico, in relation to surveys of private land claims in that Territory—to the Committee on the Public Lands.

By Mr. CLEMENTS: Petition of 18 citizens of Haralson County, Georgia, protesting against a duty on hides—to the Committee on Ways and Means.

By Mr. COGSWELL: Petition of Hon. E. S. Moseley and others, of Newburyport, Mass., for the passage of laws for the perpetuation of the national-banking system—to the Committee on Banking and Currency.

By Mr. COTHRAN (by request): Petition by sundry citizens of Pickens County, South Carolina, urging the passage of Senate bill 2806 and of House bill 7162—to the Committee on Banking and Currency.

By Mr. COVERT: Petition of John R. Burtis and others, of Queens County, New York, for an increased duty on farm products—to the Committee on Ways and Means.

Also, petition of Subordinate Union No. 40, Bricklayers and Masons' International Union, of Long Island City, N. Y., relative to work on public buildings—to the Committee on Labor.

By Mr. CRAIG: Memorial of Grange No. 421, Covode, Indiana County, Pennsylvania, favoring a tariff on farm products—to the Committee on Ways and Means.

Also, memorial of Grange No. 855, Mendon, Westmoreland County, Pennsylvania, for the passage of the same measure—to the Committee on Ways and Means.

Also, memorial from Waukena Grange, No. 90, Westmoreland County, Pennsylvania, for the passage of the same measure—to the Committee on Ways and Means.

By Mr. EVANS: Petition of 500 business men of Chattanooga, Tenn., urging increase in pay of post-office clerks—to the Committee on the Post-Office and Post-Roads.

Also, petition of merchants, bankers, and business men of same city and State, favoring an amendment to section 22 of interstate-commerce law—to the Committee on Commerce.

Also, petition of Martha Saunders, of Henderson County, Tennessee, asking for a pension—to the Committee on Pensions.

Also, petition of the Onward Farmers and Laborers' Union of Tennessee, No. 260, favoring House bill 5353—to the Committee on Agriculture.

By Mr. HARE: Petition of sundry citizens of Collins County, Texas, asking for free coinage of silver—to the Committee on Coinage, Weights, and Measures.

By Mr. HATCH: Petition of citizens of Osceola, Mo., for an increase in the number of Army chaplains—to the Committee on Military Affairs.

By Mr. HAYNES: Petition of R. B. Hubbard and 60 others, business men of the city of Sandusky, Ohio, praying for legislation to perpetuate and strengthen the national-banking system—to the Committee on Banking and Currency.

By Mr. HENDERSON, of Illinois: Resolutions of Emery Post, No. 198, Grand Army of the Republic, Department of Illinois, in favor of House bill 6443, for a service pension—to the Committee on Invalid Pensions.

By Mr. JOSEPH: Petition from citizens of New Mexico, asking that townships 17, 18, 19, and 20 north, of ranges 11 and 13 east, be reserved as a national park in said Territory—to the Committee on the Public Lands.

By Mr. KELLEY: Petition of Pollock Post, No. 42, Department of Kansas, asking Congress to appropriate the 1,200 acres of Government land near Fort Dodge, Kans., for the benefit of a State soldiers' home located there—to the Committee on Military Affairs.

Also, petition of 36 citizens of Osage County, Kansas, asking Congress not to pass the bill introduced by the chairman of the Committee on Banking and Currency on the 28th of January, 1890, believing, as they say they do, that it would result against the best interests of the laboring man and in the interests of monopolists, money kings, and bondholders, and intended to perpetuate a financial system that is nothing more nor less than legalized robbery—to the Committee on Banking and Currency.

By Mr. KENNEDY: Petition of 35 citizens of Logan County, Ohio, asking for the passage of the McKinley bill—to the Committee on Ways and Means.

Also, petition of E. Patterson and 35 others, citizens of Bellefontaine, Ohio, recommending the passage of the same measure—to the Committee on Ways and Means.

Also, petition of 48 members of the Grand Army of the Republic, asking for the passage of a service-pension bill—to the Committee on Invalid Pensions.

Also, petition of 43 members of the Grand Army of the Republic, for the same measure—to the Committee on Invalid Pensions.

Also, a petition of 106 members of the Grand Army of the Republic of Springfield, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.



Also, petition of 37 members of the Grand Army of the Republic, praying for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 250 members of the Grand Army of the Republic, of De Graff and vicinity, asking for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 243 members of the Grand Army of the Republic, of Circleville, Ohio, for the same measure—to the Committee on Invalid Pensions.

Also, petition of 218 members of the Grand Army of the Republic, of Urbana, Champaign County, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 69 members of the Grand Army of the Republic, of Commercial Point, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 36 members of the Grand Army of the Republic, of London, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 188 members of the Grand Army of the Republic, of Belle Centre, Ohio, asking for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 290 members of the Grand Army of the Republic, of Bellefontaine, Ohio, asking for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 94 members of the Grand Army of the Republic, of De Graff, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 67 members of the Grand Army of the Republic, of Fremont City, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 64 members of the Grand Army of the Republic, of Enon, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 74 members of the Grand Army of the Republic, of Plain City, Ohio, asking for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of 27 members of the Grand Army of the Republic, of South Solon, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

By Mr. LAIDLAW: Petition of citizens of Cattaraugus County, New York, for more liberal legislation relating to national banks—to the Committee on Banking and Currency.

By Mr. LAWS: Petition of Harmony Alliance, Clay Center, Nebr., against the Windom bill—to the Committee on Coinage, Weights, and Measures.

Also, petition of 124 citizens of Nebraska, asking amendment and extension of the national-banking law—to the Committee on Banking and Currency.

By Mr. McCLELLAN: Protest by Narkey Bros., florists at Fort Wayne, Ind., against the proposed increase of the duty on grasses, palms, lily of the valley, azaleas, or any other stock of florists not commonly produced in this country and which can not be grown to advantage here owing to climatic and other conditions—to the Committee on Ways and Means.

By Mr. McRAE: Petition of W. P. McIntosh and 88 others, citizens of Polk County, Arkansas, in favor of the free coinage of silver—to the Committee on Coinage, Weights, and Measures.

By Mr. MOREY: Petition for the relief of William S. Straley, of Springfield, Ohio—to the Committee on Invalid Pensions.

Also, petition of citizens of Xenia, Ohio, asking for a modification of the tobacco schedule in the McKinley bill—to the Committee on Ways and Means.

Also, petition of 120 citizens of Middletown, Ohio, for perpetuation of the national-banking system—to the Committee on Banking and Currency.

Also, letter of Rev. George Walker, of Oxford, Ohio, in favor of timber culture and timber protection—to the Committee on the Public Lands.

Also, protest of Cigar-Makers' Union, of Hamilton, Ohio, against schedule F of the McKinley bill relative to tobacco—to the Committee on Ways and Means.

Also, petition of 565 Union soldiers, of the Seventh Ohio Congressional district, for a service pension—to the Committee on Invalid Pensions.

By Mr. O'DONNELL: Protest of the cigar manufacturers of the Third district of Michigan, against the provisions of the McKinley bill relating to tobacco—to the Committee on Ways and Means.

By Mr. PAYNTER: Petition of Elizabeth Forman, for a pension—to the Committee on Invalid Pensions.

Also, petition of Mrs. Alice A. Hamsick, for increase of pension—to the Committee on Invalid Pensions.

By Mr. PAYSON: Petition of Col. Albin H. Nixon, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. PERKINS: Resolutions of New Salem Post, No. 323, Grand Army of the Republic, of New Salem, Kans., asking that the Fort

Dodge military reservation be given to the State of Kansas for a State soldiers' home—to the Committee on Military Affairs.

By Mr. REED, of Iowa: Resolutions of the Board of Trade of Council Bluffs, Iowa, remonstrating against the imposition of import duties on silver ore—to the Committee on Ways and Means.

By Mr. RICHARDSON: Petition of estate of James Cunningham, deceased, late of White County, Tennessee, for reference of his case to the Court of Claims under the provisions of the Bowman act—to the Committee on War Claims.

By Mr. ROBERTSON: Petition of A. Demmick and 47 others, citizens and farmers of St. Landry Parish, Louisiana, praying that Congress pass House bill 5353, defining options and futures and imposing special taxes on dealers therein, and for other purposes—to the Committee on Agriculture.

By Mr. ROCKWELL: Petition of Pittsfield Board of Trade, for the improvement of Harlem River and Spuyten Duyvil Creek—to the Committee on Rivers and Harbors.

By Mr. ROGERS (by request): Petition of administrator of Henry N. McCray, deceased, late of Saline County, Arkansas, for reference of his case to the Court of Claims under the provisions of the Bowman act—to the Committee on War Claims.

Also, petition of Thomas B. Paine, for same reference—to the Committee on War Claims.

Also, memorial of certain citizens of Arkansas, for the continuance of the national-banking system—to the Committee on Banking and Currency.

Also, memorial in favor of the Butterworth option bill—to the Committee on Agriculture.

By Mr. SCRANTON: Petition of 64 employes of Glarney, Brown & Co., of Scranton, Pa., against proposed tariff on cigars and tobacco—to the Committee on Ways and Means.

By Mr. SKINNER: Claim of Dorsey S. Delouch, of Southampton County, North Carolina—to the Committee on War Claims.

By Mr. STEWART, of Georgia: Petition of citizens of Spalding County, Georgia, against the passage of the Conger lard bill—to the Committee on Agriculture.

By Mr. STONE, of Kentucky: Memorial of citizens of Marshall County, Kentucky, praying passage of H. R. 5353—to the Committee on Agriculture.

By Mr. STONE, of Missouri: Resolutions adopted by the St. Louis Conference of the Methodist Episcopal Church, in favor of an increase in the number of Army chaplains—to the Committee on Military Affairs.

By Mr. STRUBLE: Resolutions adopted by General Bell Post, No. 332, Grand Army of the Republic, Kingsley, Iowa, requesting the passage of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. TARSNEY: Memorial of 150 business men and firms of Kansas City, Mo., praying for the passage of bills calculated to strengthen and encourage the extension of the national-banking system—to the Committee on Banking and Currency.

Also, petition of 500 business firms of Kansas City, Mo., praying for the passage of laws increasing pay of post-office clerks and granting them furloughs for rest and recreation—to the Committee on the Post-Office and Post-Roads.

By Mr. EZRA B. TAYLOR: Petition of S. J. Smith and 125 others, citizens of Conneaut, Ohio, praying for the perpetuation of the national-banking system—to the Committee on Banking and Currency.

By Mr. TILLMAN: Petition of P. B. Lanham, J. D. Zimmerman, and 14 others, citizens of Edgefield County, South Carolina, praying the enactment of House bill 2806, for establishing the alliance subtreasury system—to the Committee on Ways and Means.

By Mr. TURNER, of Georgia: Petition of J. E. Harris and 21 others, citizens of Quitman County, Georgia, requesting the passage of the Conger lard bill—to the Committee on Agriculture.

By Mr. VANDEVER: Petition of citizens of San Diego, Cal., protesting against sections 24 and 25 of H. R. 8278—to the Committee on Commerce.

Also, a copy of the resolution of the Methodist Episcopal Conference of California, relative to the general appropriations of the Government—to the Committee on Appropriations.

Also, petition of citizens of Los Angeles, Cal., protesting against sections 24 and 25 of H. R. 8278—to the Committee on Commerce.

By Mr. WHEELER, of Alabama: Petition of F. D. Hunt, executor of William F. Hunt, of Jackson County, Alabama, praying for reference of his case to the Court of Claims under act of March 3, 1883—to the Committee on War Claims.

By Mr. WICKHAM: Petition of 499 soldiers of the Fourteenth Congressional district of Ohio, for a service pension—to the Committee on Invalid Pensions.

Also, petition of certain soldiers, for passage of Senate bill to increase pension for deafness—to the Committee on Invalid Pensions.

By Mr. WILLIAMS, of Illinois: Papers and proofs in case of John A. Jack—to the Committee on Military Affairs.

By Mr. WILLIAMS, of Ohio: Petition of Francis Haviland and 1,283 others, of Dayton, Ohio, for a service-pension law—to the Committee on Invalid Pensions.



Also, petition of William M. Williamson and 140 others, for the passage of a service-pension law—to the Committee on Invalid Pensions.

Also, petition of J. W. Bastness and 163 others, of Miami County, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of Thomas A. Pollock and 273 others, of Montgomery County, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of Silas Laird and 157 others, of Preble County, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

Also, petition of M. V. Randall and 230 others, citizens of Preble County, Ohio, for the passage of the same measure—to the Committee on Invalid Pensions.

## SENATE.

MONDAY, April 28, 1890.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Journal of the proceedings of Saturday last was read and approved.

## PETITIONS AND MEMORIALS.

Mr. TURPIE presented a petition of the United States Maimed Soldiers' League, praying for the passage of Senate bill 833 and House bill 3328, granting pensions to ex-Union soldiers; which was referred to the Committee on Pensions.

He also presented a memorial of the Society of Indiana Florists, remonstrating against that part of the bill known as the McKinley bill which provides for an increase of duty on roses, palms, orchids, or any other stock for florists not commonly produced in this country; which was referred to the Committee on Finance.

Mr. BERRY presented a petition of 67 citizens of Howard County, Arkansas, a petition of 30 citizens of Euclid, Ark., and a petition of 47 citizens of Bright Star, Ark., praying for the free coinage of silver; which were referred to the Committee on Finance.

Mr. CALL. I present the memorial of Reasoner Brothers, of Manatee, Fla., remonstrating against the passage of the bill now pending before the House of Representatives, known as the McKinley bill, providing for an increase of duty on roses, palms, orchids, and stock for florists not commonly produced in this country. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. HOAR. I present resolutions of the Legislature of the Commonwealth of Massachusetts, relating to the enactment of a Federal law relative to placing guard-rails on the top of box and stock freight-cars. I believe it is customary in the Senate to read resolutions from a State Legislature, and I ask that these be read.

The VICE-PRESIDENT. The resolutions will be read.

The Chief Clerk read as follows:

## COMMONWEALTH OF MASSACHUSETTS, In the year 1890.

Resolutions relating to the enactment of a Federal law relative to placing guard rails on the top of box and stock freight-cars.

Whereas the persons who are employed as brakemen on freight trains are constantly subjected to danger and the frequent loss of life caused by the want of guard-rails on the top of box and stock freight-cars, and in order to remove the danger a Federal law should be passed, requiring all railroads and freight-car companies doing an interstate-commerce business to equip their box and stock freight-cars with proper guard-rails: Therefore,

Resolved, That the senate and house of representatives of the Commonwealth of Massachusetts, in General Court assembled, earnestly urge upon the Congress of the United States the passage of a law requiring all railroad companies and freight-car companies doing an interstate-commerce business to place proper guard-rails upon the top of all box and stock freight-cars.

Resolved, That a copy of these resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth.

HOUSE OF REPRESENTATIVES, March 19, 1890.

Adopted: Sent up for concurrence.

EDWARD A. McLAUGHLIN, Clerk.

SENATE, April 1, 1890.

Concurred.

HENRY D. COOLIDGE, Clerk.

A true copy.

Attest:

EDWARD A. McLAUGHLIN,

Clerk of the House of Representatives.

Mr. CULLOM. I desire to say, in connection with those resolutions, that the subject is under consideration by the Interstate Commerce Committee, who will probably report a bill in regard to it very soon.

Mr. HOAR. I introduced a bill, which was referred to the committee of which the Senator is chairman, some weeks ago.

The VICE-PRESIDENT. The resolutions will be referred to the Committee on Interstate Commerce.

Mr. INGALLS presented the petition of Rev. George C. Clarke, of Russell, Kans., accompanied by affidavits of M. W. Peters and Paul Crites, praying to be paid the difference in pay between that of sergeant and lieutenant from November 18, 1863, to April 15, 1865; which, with the accompanying papers, was referred to the Committee on Military Affairs.

He also presented petitions of members of the bar of Edwards and

Cowley Counties, in the State of Kansas, praying for the holding of regular terms of United States courts at Wichita, Kans.; which were referred to the Committee on the Judiciary.

He also presented a petition of citizens of Kansas, praying that Mexican flux ore may be admitted free of duty; which was referred to the Committee on Finance.

He also presented a petition of citizens of Harper County, Kansas, praying for the passage of the service-pension bill; which was referred to the Committee on Pensions.

He also presented petitions of six posts of the Grand Army of the Republic, located at Meade Centre, Harper, New Salem, Webster, Tribune, and Bear Valley, in the State of Kansas, and the petitions of General Mower Post, No. 95, and Col. J. J. Jones Post, No. 226, Department of Kansas, Grand Army of the Republic, praying for the donation of the remainder of the Fort Dodge military reservation for use as a soldiers' home; which were referred to the Committee on Public Lands.

Mr. FARWELL presented a petition of the Farragut Naval Association of Chicago, Ill., praying Congress to replace the Michigan with a modern vessel; which was referred to the Committee on Naval Affairs.

Mr. BARBOUR presented a petition of citizens of Fauquier County, Virginia, praying for the free coinage of silver; which was referred to the Committee on Finance.

Mr. REAGAN presented the petition of B. F. Martin and 31 other citizens of Freestone County, Texas, praying for the free coinage of silver; which was referred to the Committee on Finance.

Mr. CULLOM. I present a petition of the Union League Club of Chicago, signed by the members of the committee on political action of that club and by its president and secretary, praying that the United States steamer Michigan, the only United States vessel cruising on the Great Lakes, be replaced by a new and suitable vessel. The petitioners pray an appropriation for the construction of a new vessel to take the place of the Michigan, which they state has greatly deteriorated, having been continuously in service for nearly fifty years, be made at the earliest opportunity, in order that the construction of such new vessel may be commenced immediately, so that she may be completed in time to enable her to be used as an exhibit on the part of the United States Government at the great world's fair. I move that the petition be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. CULLOM presented resolutions of the Union League Club, of Chicago, Ill., favoring the passage of Senate bill 2968, providing for the creation of a naval reserve; which were referred to the Committee on Naval Affairs.

Mr. COCKRELL. I present resolutions adopted by the board of directors of the Merchants' Exchange of St. Louis, Mo., calling attention to the disastrous floods on the Lower Mississippi, and the imperative duty of the Government to assist with its strong arm, first, to repair the crippled condition of the works heretofore erected and maintained by a most burdensome system of local taxation and, second, to extend whatever aid may be found consistent with legislation under the Constitution to prevent a recurrence of similar disasters.

I move that these resolutions be referred to the Committee on Commerce.

The motion was agreed to.

Mr. COCKRELL. I also present resolutions adopted by the Commercial Club of Kansas City, in the State of Missouri. I will read these resolutions and call the attention of the distinguished Senator from North Carolina [Mr. RANSOM], the chairman of the Committee on Private Land Claims, to them:

Whereas the business relations of Kansas City with New Mexico and Arizona have been close and continuous since the days of the Santa Fé trail, and the prosperity and growth of that section of the southwest is of direct and permanent benefit to Kansas City; and

Whereas the full development of that region is hampered and retarded by the unsettled condition of land titles arising from Spanish and Mexican land grants, for the ascertainment of which no adequate provision has been made by law; and

Whereas permanent immigration and investment of capital upon such lands can not be expected until titles thereto are established: Now, therefore,

Be it resolved, By the Commercial Club of Kansas City, representing the merchants, manufacturers, and business men of the city, that we are heartily in favor of the efforts now being made by the bureau of immigration of the Territory of New Mexico toward inducing Congress to pass an act establishing a tribunal with full power to pass upon land-grant titles and settle the same.

Attest:

[SEAL.]

RYERSON RITCHIE, Secretary.

I do earnestly trust that the Committee on Private Land Claims will take this matter up and report a bill for the adjustment of titles to these lands in New Mexico. It is a disgrace to the Congress of the United States and the people that no remedy for the adjustment of these private land claims has been provided.

I move that the resolutions be referred to the Committee on Private Land Claims.

The motion was agreed to.

Mr. VOORHEES. I present the memorial of the Society of Indiana Florists, remonstrating against the passage of that part of the bill now pending before the House of Representatives known as "the McKinley bill," which provides for an increase of duty on roses, palms, orchids, spi-