By Mr. EZRA B. TAYLOR: Petition of Jacob Winans, for restoration to the pension rolls—to the Committee on Invalid Pensions.

By Mr. THOMAS: Petition of Hans Galsteed and 12 others, members of the Farmers' Alliance of Westby, Vernon County, Wisconsin, praying the speedy passage of House bill 5353, defining options and futures and imposing a tax on dealers therein—to the Committee on Agriculture.

By Mr. VANDEVER: Petition of the United States marshal of the northern district of California that the law be so amended as to allow him to charge fees that a United States marshal of Nevada and Oregon is allowed to charge—to the Committee on the Judiciary.

Also, petition from certain citizens of California for a rebate on manufactured tobacco and snuff—to the Committee on Ways and Means.

By Mr. WILLCOX: Resolution of Jefferson Council asking for a restriction of foreign immigration—to the Select Committee on Immigration and Naturalization.

SENATE.

FRIDAY, *December* 12, 1890.

Prayer by Rev. D. J. MCMILLAN, D. D., of New York City.

WATSON C. SQUIRE, a Senator from the State of Washington, appeared in his seat to day.

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

PETITIONS AND MEMORIALS.

Mr. ALLISON presented resolutions adopted by the Farmers' Alliance of the State of Iowa in annual session at Des Moines, October 29, 1890; resolutions adopted by the Butter, Cheese, and Egg Association of the State of Iowa in its fourteenth annual convention at Fort Dodge, November 5 and 7, 1890, and resolutions adopted by the National Farmers' Alliance of the State of Indiana, held at Fort Wayne, June 4 and 5, 1890, favoring the passage of the so-called Conger lard bill; which were ordered to lie on the table.

He also presented resolutions adopted by the Farmers' Alliance of the State of South Dakota, held at Huron, S. Dak., June 4, 1890, favoring the passage of what are known as the Butterworth and Conger bills; which were ordered to lie on the table.

He also presented a petition of the Improved Stock Breeders' Association of the State of Iowa, held at Oskaloosa, Iowa, December 3 to 5, 1890, praying for the passage of an amendment to the interstate-commerce act; which was referred to the Committee on Interstate Commerce.

Mr. PADDOCK. I present a memorial of delegates representing the Farmers' Alliance and Industrial Union of twenty-five States and three Territories, and a resolution adopted by the supreme council of the Farmers' Alliance and Industrial Union recently held at Ocala, Fla., praying for the passage of Senate bill 3991, known as the pure-food bill, and protesting against the passage of House bill 11568, known as the Conger lard bill. As these bills are pending before the Senate, I move that the memorial and resolution lie on the table.

The motion was agreed to.

Mr. PADDOCK presented a petition of a committee of the American Bar Association, praying for the passage of some measure for the relief of the Supreme Court; which was ordered to lie on the table.

Mr. STOCKBRIDGE presented a petition of a committee of the American Bar Association, praying Congress to take action at this session for the relief of the Supreme Court of the United States; which was ordered to lie on the table.

Mr. MCMILLAN presented a petition of the Jackson (Mich.) Typographical Union, and a petition of Typographical Union No. 72, of Lansing, Mich., praying for the restoration of the former scale of wages at the Government Printing Office; which were ordered to lie on the table.

Mr. BUTLER. I present the petition of Robert H. Cockroft, Annie Smith, Louisa Branch, and others, citizens of Columbia, S. C., praying that the sum of $3,059.98 be awarded to them as the heirs at law and distributees of the estate of Abraham Cockroft, and that such legislation may be had as will carry the petition into effect. The petition is signed by W. S. Monteith, administrator and attorney in fact of the heirs. I believe the Committee on Finance has jurisdiction of this subject, and I therefore move that the petition be referred to that committee.

The motion was agreed to.

Mr. MCPHERSON presented the memorial of Perry Chamberlin and 2 other citizens of Englewood, N. J., the memorial of John Leonard and 13 other citizens of Trenton, N. J., the memorial of William S. Mills and 11 other citizens of Trenton, N. J., the memorial of Oliver D. Graves, C. Becker, and 91 other citizens of Cumberland County, New Jersey, and the memorial of James W. Cook and 15 other citizens of Trenton, N. J., remonstrating against the passage of the Federal elections bill; which were ordered to lie on the table.

Mr. EVARTS presented a petition of the Maritime Association of the port of New York, praying for a reduction of letter postage to 1 cent per ounce; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Maritime Association of the port of New York, praying for the passage of Senate bill 3739, "to provide for ocean mail service between the United States and foreign ports, and to promote commerce," or some other measure embracing such provisions; which was referred to the Committee on Commerce.

Mr. PIERCE presented a petition of citizens of Morton County, North Dakota, praying that more troops be stationed at Fort Abraham Lincoln in that State; which was referred to the Committee on Military Affairs.

Mr. WILSON, of Iowa, presented resolutions of Farmers' Alliance No. 1639, of Forest Grove, Iowa; resolutions of Farmers' Alliance 1118, of Rose Hill, Iowa; resolutions of Farmers' Alliance 1382, of Maple River, Iowa, and resolutions of Farmers' Alliance 1106, of Greene County, Iowa, praying for the passage of what is known as the Conger lard bill; which were referred to the Committee on Agriculture and Forestry.

He also presented resolutions of Typographical Union No. 192, of Cedar Rapids, Iowa, in favor of the passage of House bill 8046, relating to the reduction of wages in the Government Printing Office; which were ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. BARBOUR, from the Committee on the District of Columbia, to whom was referred the bill (S. 695) to incorporate the Georgetown and Arlington Railway Company of the District of Columbia, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. VEST, from the Committee on Public Buildings and Grounds, to whom were referred the following bills, reported them severally without amendment:

A bill (H. R. 7630) to increase the limit of cost of the public building at Charleston, S. C.;

A bill (H. R. 630) to provide for the erection of a public building at Reidsville, N. C.;

A bill (H. R. 93) for the erection of a public building at Camden, Ark.; and

A bill (H. R. 178) to provide for enlarging the proposed public building at Savannah, Ga., the purchase of another site if practicable, and for the sale of the present site.

He also, from the same committee, to whom was referred the bill (H. R. 5380) to provide for the construction of a public building at Davenport, Iowa, reported it without amendment.

Mr. INGALLS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 9105) requiring the street railway companies of the District of Columbia to make annual reports, reported it with amendments.

Mr. SPOONER, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 256) providing for a public building in South Bend, Ind., reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. 196) for the erection of a public building at the city of Bloomington, Ill., reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. 4403) for the erection of a public building at Akron, Ohio, reported it with an amendment.

BILLS INTRODUCED.

Mr. SHERMAN (by request) introduced a bill (S. 4606) for the relief of John A. Lynch; which was read twice by its title, and referred to the Committee on Claims.

Mr. HOAR. I have been requested by a communication from the Wage-Workers' Political Alliance of the District of Columbia to introduce a bill. I have not been able to give the bill a thorough study, as I should like to do, and therefore I am not able to express an opinion about it myself.

The bill (S. 4607) to establish a department of elections, and for other purposes was read twice by its title, and referred to the Committee on Privileges and Elections.

He also introduced a bill (S. 4608) to remove the charge of desertion from the military record of James Gradey; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. BLODGETT introduced a bill (S. 4609) to increase the pension of Richard Brown; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CAREY introduced a bill (S. 4610) granting to the State of Wyoming certain lands in the Fort D. A. Russell military reservation for agricultural fair and industrial exposition grounds, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 4611) making an appropriation to reimburse the State of Wyoming for moneys expended in the protection of

the Yellowstone National Park; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. GORMAN introduced a bill (S. 4612) for the rebuilding of the United States revenue steamer Thomas Ewing with an iron hull; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CHANDLER introduced a bill (S. 4613) granting a pension to Mary De W. Young; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CHANDLER. I also present the petition of Mary De W. Young, requesting that a pension may be granted to her, which I move be printed and referred with the bill to the Committee on Pensions.

The motion was agreed to.

Mr. HISCOCK (by request) introduced a bill (S. 4614) to provide American registers for the steamers Claribel, Alene, and Athos; which was read twice by its title, and referred to the Committee on Commerce.

Mr. INGALLS introduced a bill (S. 4615) granting a pension to S. H. Nesbit; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 4616) granting a pension to Henry O. Brown; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WILSON, of Iowa, introduced a bill (S. 4617) for the relief of Eliza W. Miller; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HIGGINS (by request) introduced a bill (S. 4618) to amend an act entitled "An act to incorporate the Georgetown Barge, Dock, Elevator and Railway Company;" which was read twice by its title, and referred to the Committee on the District of Columbia.

CONTRACT FOR POST-OFFICE SAFES.

Mr. REAGAN submitted the following resolution; which was read:

Be it resolved, That the Postmaster-General be, and is hereby, directed to inform the Senate at the earliest practicable moment under what conditions safes for the service of the Post-Office Department are now being procured, when required, whether under contract or in open market, and, if under contract, the date of such contract, the period for which said contract was to exist, with whom executed, and the price agreed to be paid.

Also whether since the existence or expiration of such contract other proposals have been solicited by the Department, and, if so, when such proposals were submitted to the Department, and what action, if any, has been taken upon said proposals.

The VICE PRESIDENT. Does the Senator from Texas ask for the present consideration of the resolution?

Mr. REAGAN. I should like to have action upon it if there is no objection.

Mr. EDMUNDS. That resolution evidently needs a little amendment. It may go over until to-morrow and be printed.

The VICE PRESIDENT. The resolution will lie over and be printed.

ORDER OF BUSINESS.

The VICE PRESIDENT. The Chair lays before the Senate a resolution offered by the Senator from Oregon [Mr. DOLPH], coming over from a previous day.

Mr. DOLPH. What became of the resolution of the Senator from Kansas [Mr. PLUMB] in regard to the hour of meeting?

The VICE PRESIDENT. The resolution offered by the Senator from Kansas was displaced at the hour of 2 o'clock yesterday by the unfinished business.

Mr. HOAR. I move to take up that resolution if it does not take precedence.

Mr. HARRIS. If there be no further morning business, I ask the unanimous consent of the Senate to consider at this time House bill 11842, a bill to pension James B. Guthrie. If it leads to any debate or takes any time longer than the usual formula, I shall withdraw the request.

Mr. HOAR. I have asked the Senate to take up the resolution of the Senator from Kansas, which comes over from a previous day.

Mr. HARRIS. I ask the Senator from Massachusetts to yield to me a moment in order that I may ask the Senate to consider the pension bill just referred to. The party whom it is proposed to pension is eighty years of age, is blind, is very poor, and in great need. I hope the Senate will act upon the bill at once.

The VICE PRESIDENT. Is there objection to the request made by the Senator from Tennessee? The bill will be read for information.

The Chief Clerk read the bill (H. R. 11842) for the relief of James B. Guthrie.

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

Mr. EDMUNDS. Let us hear the report.

The VICE PRESIDENT. The report has not yet come from the Printer. The bill was reported yesterday.

Mr. EDMUNDS. Let it wait until we get the report.

The VICE PRESIDENT. The bill will lie on the table for the time being.

HOUR OF MEETING AND EVENING SESSION.

Mr. EDMUNDS. Let the resolution be read that is before the Senate.

The VICE PRESIDENT. The resolution submitted by the Senator from Kansas [Mr. PLUMB] and coming over from a previous day will be read.

The Chief Clerk read the resolution submitted by Mr. PLUMB on the 10th instant, as follows:

Resolved, That from and after to-day, and until further ordered, the Senate will meet at 10 o'clock a. m. and take a recess from 5.30 to 8 o'clock p. m., and during the continuance of this order the morning hour shall expire at 11 o'clock a. m.

The VICE PRESIDENT. The question is on agreeing to the resolution.

Mr. HOAR. I move to amend the resolution by striking out the word "to-day" and inserting "Saturday, December 13;" so that it will read "from and after Saturday, December 13;" and then by striking out of it the words "and take a recess from 5.30 to 8 o'clock p. m.;" so that it will leave the matter of night sessions to be determined by the Senate hereafter, either from day to day or by general order as shall seem best at the time.

The VICE PRESIDENT. The amendment proposed by the Senator from Massachusetts will be stated.

The CHIEF CLERK. It is proposed to amend the resolution so as to make it read:

Resolved, That from and after Saturday, December 13, and until further ordered, the Senate will meet at 10 o'clock a. m., and during the continuance of this order the morning hour shall expire at 11 o'clock a. m.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. INGALLS. If the resolution as amended is agreed to, does the Senate meet on Saturday at 10 o'clock?

Mr. HOAR. "From and after Saturday."

The VICE PRESIDENT. "From and after Saturday."

Mr. INGALLS. It ought to read "on and after Monday, December 15.

Mr. HOAR. Strike out the words "from and," and that will make it clear that the Senate will meet after Saturday, December 13, at 10 o'clock.

The VICE PRESIDENT. The proposed amendment will be stated.

The CHIEF CLERK. It is proposed to amend the resolution so as to read:

Resolved, That after Saturday, December 13, and until further ordered, the Senate will meet at 10 o'clock a. m., and during the continuance of this order the morning hour shall expire at 11 o'clock a. m.

Mr. INGALLS. The order of meeting at 10 o'clock under that will take effect on Monday?

Mr. HOAR. Yes.

The VICE PRESIDENT. It will.

The amendment was agreed to.

Mr. PADDOCK. I should like to ask the Senator having charge of the bill to which this resolution relates, in the absence of the Senator who presented the resolution, if it would not serve the purpose he has in view as well to let the morning hour extend from 10 to 12 o'clock. During the two hours between 10 and 12 o'clock there are many important measures which might be partially and some perhaps fully and entirely considered and concluded. There is a very strong demand from every part of the country that some measures of relief on the lines of finance, etc., for the relief of the suffering business interests of the country, shall be considered here and adopted as soon as possible.

Mr. HOAR. There is no such measure that we can deal with in the morning hour.

Mr. PADDOCK. We can not deal with such a measure in a single hour perhaps, but there are many that could be dealt with in two hours.

Mr. HOAR. The matter is only for the further order of the Senate. I should, myself, for one, object very much to cumbering the resolution with prolongation of the morning hour to two hours.

Mr. PADDOCK. I do not wish to embarrass the Senator in the object he has in view, but at the same time I thought the result he desires could be as readily and fully accomplished, and that some progress might be made with other measures by thus extending the morning hour.

Mr. GRAY. If the Senator from Nebraska will allow me, I should like to suggest that the morning hour will be nearly half taken up by the reading of the Journal, and it will leave only really about thirty or thirty-five or forty minutes for the transaction of other business. I think the suggestion made by the Senator from Nebraska, that the morning hour should extend to 12 o'clock, would be a very sensible one to adopt, and in furtherance of the public business.

Mr. EDMUNDS. Our experience has proved every year that when any measure of importance that leads to differences is up as the regular order, the existence of any morning hour at all delays the total business of the Senate; for anything in the morning hour that occasions the least debate is often carried over to the end of that morning hour, and the next morning it comes up again and is debated over again until the thing is out, whether we have the morning hour one hour or two hours or three, because everybody knows that when a certain hour comes that is the end of it for then. It is a positive loss of time, and our experience has proved it. We should get on faster with the total business

of the Senate if we had not any morning hour and took everything up that we left off the last night and finished that first, and then took up the next thing and finished that. I am in favor, therefore, of giving the morning hour the shortest time possible.

Mr. PADDOCK. Mr. President, I do not think the experience of the Senate generally for the past few years has been of the character stated by the Senator from Vermont. A great many bills have been passed in the morning during the past three years at least, useful, important bills that could not have been passed were it not for the morning hour. But inasmuch as it is not agreeable to the Senator having in charge the business before the Senate which it is sought to advance by this arrangement to accept the suggestion, I will not press it.

The VICE PRESIDENT. The question recurs on the resolution as amended.

The resolution as amended was agreed to.

ABRIDGMENT OF SUFFRAGE.

The VICE PRESIDENT. The resolution of the Senator from Oregon [Mr. DOLPH] is still pending.

Mr. DOLPH. I ask that the resolution be read.

The VICE PRESIDENT. The resolution will be read.

The Chief Clerk read the resolution submitted by Mr. DOLPH on the 10th instant, as follows:

Resolved, That the Committee on Privileges and Elections be, and they are hereby, directed to inquire and report to the Senate without delay whether the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of any State, being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crime.

Mr. DOLPH. Mr. President, the inquiry proposed by this resolution is an important one not only to the States in which it may be charged that there is a denial or abridgment of the right to vote for causes not permitted by the Constitution, but to every State of the Union and every citizen of the United States. Therefore I deem it but just to the Senate to state briefly the reasons which induced me to offer it.

We have just had a census of the population of the United States taken and the number of inhabitants has been ascertained. It becomes the duty therefore of Congress under the Constitution to reapportion the representation of the several States. Some of the Senators upon this side of the Chamber and some of the leading newspapers of the country have suggested that an inquiry ought to be made to ascertain whether representation, which is based upon population, ought not in some of the States to be decreased by reason of the denial or abridgment of the right of suffrage to citizens of the United States over twenty-one years of age. The second section of the fourteenth article of amendment to the Constitution of the United States is as follows:

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

I should say that this constitutional amendment, or at least this portion of it, was adopted for the purpose of changing the basis of representation in the several States. It will be seen that by this section the qualification of voters in the several States is not attempted to be prescribed; the State is not deprived of its power to determine what the qualifications of voters shall be; but it is provided that if a State shall require qualifications other than those specified in this section the basis of representation in that State shall be reduced in the proportion that the number of male citizens whose right to vote is thus denied or abridged shall bear to the whole number of male citizens twenty-one years of age in such State.

It has been suggested that the fifteenth amendment to the Constitution abrogates this section of the fourteenth amendment. The fifteenth amendment of the Constitution is as follows:

SEC. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

It will be observed that by this amendment Congress is not authorized to prescribe qualifications for voters. Neither of these amendments undertakes to provide that citizens of the United States shall be voters in the States or to confer the right of suffrage at all upon citizens of the State or United States. What is provided for in Article XV is that no State shall deny or abridge the right to vote on account of race, color, or previous condition of servitude, and, should a State undertake to do that, the power of Congress is plenary to legislate to prevent it. In fact the law of the State being in conflict with the higher law, the Constitution of the United States, would be void and inoperative. Therefore it is evident that the provisions of the two amendments must stand together, and that, while the States are prohibited from denying or abridging to citizens the right to vote on account of race, color, or previous condition of servitude, their right to provide other qualifications, which would be a cause for reducing their basis of representation, is not denied or abridged.

A question is raised whether this denial or abridgment of the right to vote contemplated by section 2 of the fourteenth amendment must be a denial by the State constitution or laws, in other words, by the State as such, or whether this right may be denied or abridged within the meaning of the Constitution by individuals, by a conspiracy, by individuals conspiring together to intimidate and prevent voters from the exercise of this right.

I find that the leading paper in my State supposes that the latter is the true interpretation of this section, and I know some members of this body who hold to the same opinion. They base their argument upon the fact that in the first section of the amendment it is provided that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;" and that in the fifteenth amendment the language is similar: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color," etc.; but that in the second section of the fourteenth amendment it is not provided that the denial or abridgment of the right of a citizen of the United States twenty-one years of age to vote in any State must be by the State. However, I do not consider that the contention is clear and beyond doubt. I find in the opinion of the United States Supreme Court in the Civil-Rights case the following language:

In this connection it is proper to state that civil rights, such as are guarantied by the Constitution against State aggression, can not be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judical or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. An individual can not deprive a man of his right to vote, to hold property, to buy and sell, to sue in courts, or to be a witness or a juror; he may, by force or fraud, interfere with the enjoyment of the right in a particular case; he may commit an assault against the person, or commit murder, or use ruffian violence at the poll, or slander the good name of a fellow-citizen; but, unless protected in these wrongful acts by some shield of State law or State authority, he can not destroy or injure the right; he will only render himself amenable to satisfaction or punishment, and amenable therefor to the laws of the State where the wrongful acts are committed. (109 United States Reports, page 17, Civil Rights Cases.)

It would seem that this language is so broad that it might be applied in the construction of the second section of the fourteenth amendment which I have read; but, be this as it may, it is a proper subject of inquiry by the Senate before we proceed to pass an apportionment bill. In either event, that is to say, whatever construction of the section is found to be the correct one, it will not be necessary, I think, to go into an investigation of the facts by means of witnesses, but I will speak more particularly upon this point hereafter.

What I desire particularly to direct the attention of the Committee on Privileges and Elections to is this, whether there are not States in the Union which have provided by their constitutions and by their laws qualifications for voters that are not permitted by section 2 of the fourteenth amendment of the Constitution without an abridgment of their basis of representation. I hold in my hand the constitution of the State of Mississippi adopted November 1, 1890, and whose provisions are to take effect on the first day of January, and I will ask to have read the article on franchise. It is not long and almost entirely relates to the subject-matter I am discussing.

The Chief Clerk read as follows:

ARTICLE XII.

FRANCHISE.

SEC. 240. All elections by the people shall be by ballot.

SEC. 241. Every male inhabitant of this State (except idiots, insane persons, and Indians not taxed) who is a citizen of the United States, twenty-one years old and upwards, who has resided in this State two years, and one year in the election district or in the incorporated city or town in which he offers to vote, and who is duly registered as provided in this article, and who has never been convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, or bigamy, and who has paid, on or before the 1st day of February of the year in which he shall offer to vote, all taxes which may have been legally required of him, and which he has had an opportunity of paying according to law, for the two preceding years, and who shall produce to the officers holding the election satisfactory evidence that he has paid such taxes, is declared to be a qualified elector; but any minister of the gospel in charge of an organized church shall be entitled to vote after six months' residence in the election district, if otherwise qualified.

SEC. 242. The Legislature shall provide by law for the registration of all persons entitled to vote at an election, and all persons offering to register shall take the following oath or affirmation: "I —— ——, do solemnly swear (or affirm) that I am twenty-one years old (or I will be before the next election in this county), and that I will have resided in this State two years, and —— election district of —— county one year next preceding the ensuing election [or if it be stated in the oath that the person proposing to register is a minister of the gospel in charge of an organized church, then it will be sufficient to aver therein, two years' residence in the State and six months in said election district], and am now in good faith a resident of the same, and that I am not disqualified from voting by reason of having been convicted of any crime named in the constitution of this State as a disqualification to be an elector; that I will truly answer all questions propounded to me concerning my antecedents so far as they relate to my right to vote, and also as to my residence before my citizenship in this district; that I will faithfully support the Constitution of the United States and of the State of Mississippi, and will bear true faith and allegiance to the same. So help me God."

In registering voters in cities and towns not wholly in one election district, the name of such city or town may be substituted in the oath for the election district. Any willful and corrupt false statement in said affidavit, or in answer to any material question propounded as herein authorized, shall be perjury.

SEC. 243. A uniform poll tax of $2, to be used in aid of the common schools and for no other purpose, is hereby imposed on every male inhabitant of this State between the ages of twenty-one and sixty years, except persons who are deaf and dumb or blind or who are maimed by loss of hand or foot, said tax to be a lien only upon taxable property. The board of supervisors of any county may, for the purpose of aiding the common schools in that county, increase the poll tax in said county, but in no case shall the entire poll tax exceed in any one year $3 on each poll. No criminal proceeding shall be allowed to enforce the collection of the poll tax.

SEC. 244. On and after the 1st day of January, A. D. 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the constitution of this State; or he shall be able to understand the same when read to him or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January 1, A. D. 1892.

SEC. 245. Electors in municipal elections shall possess all the qualifications herein prescribed, and such additional qualifications as may be provided by law.

SEC. 246. Prior to the 1st day of January, A. D. 1896, the elections of the people in this State shall be regulated by an ordinance of this convention.

SEC. 247. The Legislature shall enact laws to secure fairness in party primary elections, conventions, or other methods of naming party candidates.

SEC. 248. Suitable remedies by appeal or otherwise shall be provided by law to correct illegal or improper registration and to secure the elective franchise to those who may be illegally or improperly denied the same.

SEC. 249. No one shall be allowed to vote for members of the Legislature or other officers who has not been duly registered under the constitution and laws of this State by an officer of this State legally authorized to register the voters thereof. And registration under the constitution and laws of this State by the proper officers of this State is hereby declared to be an essential and necessary qualification to vote at any and all elections.

SEC. 250. All qualified electors and no others shall be eligible to office, except as otherwise provided in this constitution.

SEC. 251. Electors shall not be registered within four months next before any election at which they may offer to vote, but appeals may be heard and determined and revision take place at any time prior to the election; and no person who in respect of age and residence would become entitled to vote within the said four months shall be excluded from the registration on account of his want of qualification at the time of registration.

SEC. 252. The term of office of all elective officers under this constitution shall be four years, except as otherwise provided herein. A general election for all elective officers shall be held on the Tuesday next after the first Monday of November, A. D. 1895, and every four years thereafter: *Provided*, The Legislature may change the day and date of general elections to any day and date in October, November, or December.

SEC. 253. The Legislature may, by a two-thirds vote of both houses, of all members elected, restore the right of suffrage to any person disqualified by crime; but the reason therefor shall be spread upon the journals and the vote shall be by yeas and nays.

Mr. DOLPH. Mr. President, the important provisions of the article just read are that persons who have not paid all taxes assessed against them are disqualified to vote and that citizens who are not able to read any section of the constitution of the State, or are unable to understand the same when read or give a reasonable interpretation thereof, are excluded from registration; that all voters are required to be registered four months before the election by an officer of the State legally authorized to register the voters thereof, who, of course, is made the exclusive judge of the qualifications of the voters.

Now, that I may not be misunderstood, I will say that, as I understand the law with such casual examination as I have been able to give it, I do not deny the power of the State to make these provisions and to require these qualifications. What I assert is that if they are made and by them citizens of the United States twenty-one years of age are denied the right to vote, or their right is abridged, then it is not only within the power of Congress, but it becomes the duty of Congress to ascertain how many citizens of the United States twenty-one years of age are thus deprived of their right and to diminish the representation of the State in the proportion that the number of citizens thus disfranchised bears to the whole number of citizens of the United States twenty-one years of age in such State.

In the case of the United States *vs.* Reese and others, reported in 92 United States Reports, page 214, the Supreme Court said in regard to the fifteenth amendment:

The fifteenth amendment does not confer the right of suffrage upon any one. It prevents the States or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, property, or education. Now it is not. If citizens of one race having certain qualifications are permitted by law to vote, those of another having the same qualifications must be. Previous to this amendment there was no constitutional guaranty against this discrimination. Now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. This, under the express provisions of the second section of the amendment, Congress may enforce by "appropriate legislation."

As I said before, it necessarily follows on account of this prohibition of the Federal Constitution that any attempt by legislation on the part of a State to deny or abridge the right of suffrage on account of race or color would be void, and a colored citizen of the United States twenty-one years of age would have the right to vote notwithstanding the constitution or laws of the State; but the case I am now discussing is a different one. It is a general provision, applicable alike to citizens of the United States of every color and every race. It is therefore a regulation which is not prohibited by the fifteenth amendment of the Constitution, but if the State constitution or law thus restricting suffrage is for any cause except for participation in rebellion or other crime the basis of representation therefor must be reduced. The Constitution is mandatory upon Congress that that should be done.

Now, that I may be entirely fair in the presentation of this question, I desire to say that Mississippi does not stand alone in this matter. I do not know how many of the States have an educational qualification of some kind. I hold in my hand the constitution of the State of Wyoming, in which it is provided under the head of "Suffrage," being section 9 of article 6, that—

SEC. 9. No person shall have the right to vote who shall not be able to read the constitution of this State. The provision of this section shall not apply to any person prevented by physical disability from complying with its requirements.

Section 10 is as follows:

SEC. 10. Nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution, unless disqualified by the restrictions of section 6 of this article. After the expiration of five years from the time of the adoption of this constitution none but citizens of the United States shall have the right to vote.

Section 6 referred to is as follows:

SEC. 6. All idiots, insane persons, and persons convicted of infamous crimes, unless restored to civil rights, are excluded from the elective franchise.

So it will be seen that, while the constitution of Wyoming does not disfranchise citizens of the United States, inhabitants of the State at the time the constitution was adopted who were unable to read, it does disfranchise citizens of the United States over twenty-one years of age who shall go into that State hereafter unless they are able to read the constitution of the State.

I also hold in my hand what I suppose to be the last constitution of Massachusetts, at least the constitution ratified in 1857. Article 20 of that instrument is as follows:

No person shall have the right to vote, or be eligible to office under the constitution of this Commonwealth, who shall not be able to read the constitution in the English language, and write his name.

I am informed that the State of Connecticut has a somewhat similar provision. If it be true that the abridgment of the right of citizens of the United States over twenty-one years of age to vote in a State is not permitted by the Constitution of the United States without a reduction of the representation of the State in Congress, then I apprehend it is the duty of the Committee on Privileges and Elections or of the Senate, at least, through some committee, to ascertain what States have required qualifications other than those permitted under the second section of the fourteenth amendment of the Federal Constitution without an abridgment of representation, and the number of persons disqualified thereby. This duty I suppose can be performed by reference to the constitution and laws of the several States, and to the last census report, which will be an official report as to the number of citizens who can not read or write; and, as I have said, no provision will be required for examining witnesses, and therefore no such provision is made in this resolution.

But suppose the other view which is contended for by some as to the construction of section 2 of article 14 is taken and it be held, not only that Congress has the power, but that it is the duty of Congress to inquire whether the right of citizens of the United States of twenty-one years of age to vote in a State is denied or abridged by the action of individuals, by individuals conspiring together, with the approval of the public, to deprive by intimidation and fraud a class of citizens, colored citizens of the United States, of the right to vote, and that the State authorities wink at crimes committed for that purpose, then I do not apprehend that it will be necessary for the committee to go into an examination by witnesses. I think there is before Congress and before the Senate in official reports and in official statements evidence enough to satisfy a legislative body that such a condition of affairs exists.

I am not going to occupy the time of the Senate upon this resolution. I may, before the bill which is the unfinished business before the Senate is disposed of, discuss that question; but I desire to have read at the desk an extract from the inaugural address of Governor B. R. Tillman, of South Carolina. I shall have all he says upon the subject read, so as to give him and the people whom he represents, and the Senators on the other side of this Chamber the benefit of what he says on both sides of the question. I do it for the purpose of showing that he declares officially that the great mass of colored voters of the South are not fit to exercise the elective franchise and that the white people are in control of the government and intend to retain control at all hazards, which two propositions, taken together, clearly show his declaration to be that the colored citizens of the South shall not be permitted to vote when their votes will secure Republican control in the South or so long as they vote the Republican ticket, which is substantially stated in this address.

Further, he admits all that has ever been claimed on this side of the Chamber or by the Republican party as to the methods which are resorted to to prevent the exercise of the right to vote by the colored citizens of the United States under the laws of the State of South Carolina, because no colored citizen votes there except by virtue of those laws, for it is beyond the power of any State of this Union to say that a colored citizen shall not vote on account of his color, his race, or his previous condition.

I ask the Chief Clerk to read what I have indicated in the newspaper report of the message of the governor of South Carolina, which I send to the desk.

The Chief Clerk read as follows:

ROOM FOR BOTH RACES.

The dismal experiment of universal negro suffrage, inspired by hate and a cowardly desire for revenge, the rotten government built upon it and propped with bayonets, the race antagonism which blazed up and is still alive, the robbery under the form of taxation, the riot and debauchery in our legislative halls and in our capital, the prostitution and impotence of our courts of justice, while rape, arson, and murder stalked abroad in open daylight, the paralysis of trade, the stagnation of agriculture, the demoralization of society, the ignorance, the apathy, the despair which followed and brooded over the land—all these things have we endured and survived. Nearly a quarter of a century has passed since the two peoples who occupy our territory were taught to hate each other. The carpet-bag vampires and base native traitors who brought it about and kept it alive for their own sinister purposes are nearly all gone. There never was any just reason why the white men and black men of Carolina should not live together in peace and harmony. Our interests are the same, and our future, whether for weal or woe, can not be divorced. The negro was a stanch friend and faithful servant during the war, when there was every opportunity to glut upon our wives and children any hatred or desire for revenge. He had none. There is not a single instance on record of any disloyalty to his master's family during that trying and bloody period.

The recollection of this fact should make us charitable towards him for the excesses to which he was excited by the opportunity, example, and instigation of his white leaders during the dark days I have just depicted. His conduct in the recent political campaign shows that he has begun to think for himself and realizes, at last, that his best friends and safest advisers are the white men who own the land and give him employment. When it is clearly shown that a majority of our colored voters are no longer imbued with Republican ideas the vexed negro problem will be solved and the nightmare of a return of negro domination will haunt us no more. Can not I appeal to the magnanimity of the dominant race? Can not I pledge in your behalf that we white men of South Carolina stand ready and willing to listen kindly to all reasonable complaints; to grant all just rights and safe privileges to these colored people; that they shall have equal protection under the law and a guaranty of fair treatment at our hands?

That the colored people have grievances it is idle to deny. That the memory of the wrongs and insults heaped upon the whites by the blacks during their eight years' rule has provoked retaliation, and often injustice, is true. It was natural and inevitable. But we owe it to ourselves as a Christian people, we owe it to the good name of our State, which has been blackened thereby and its prosperity retarded, that these things should be stopped. The whites have absolute control of the State government, and we intend, at any and all hazards, to retain it. The intelligent exercise of the right of suffrage, at once the highest privilege and most sacred duty of the citizen, is as yet beyond the capacity of the vast majority of colored men. We deny without regard to color that "all men are created equal;" it is not true now and was not true when Jefferson wrote it; but we can not deny, and it is our duty as the governing power in South Carolina, to insure to every individual, black and white, the "right to life, liberty, and the pursuit of happiness."

With all the machinery of the law in our hands, with every department of the government—executive, legislative, and judicial—held by white men, with white juries, white solicitors, white sheriffs, it is simply infamous that resort should be had to lynch law and that prisoners should be murdered because the people have grown weary of the law's delay and of its inefficient administration. Negroes have nearly always been the victims, and the confession is a blot on our civilization.

Let us see to it that the finger of scorn no longer be pointed at our State because of this deplorable condition of affairs. Let us hunt out the defects in our laws; let us make plain and simple the rules of court which have outraged justice by granting continuance and new trials upon technicalities. Let us insist that only intelligent, sober, virtuous citizens sit on our juries. Let punishment for crime by whomsoever committed be prompt and sure, and, with the removal of the cause, the effect will disappear. And as a last desperate remedy, to use only when others fail, grant the executive the power of absolute removal of any sheriff who fails to prevent any such act of violence in his county after the law has taken control of the prisoner.

I have thought it wise to speak in emphatic terms on this subject because every Carolinian worthy of the name must long to see the time when law shall reassert its sway and when our people will not be divided into hostile political camps, and all classes and colors shall vie with each other in friendly rivalry to make the State prosperous and happy.

Mr. McMILLAN. I rise to make a report. I am directed by the Committee on the District of Columbia to report with amendment the bill (H. R. 8243) supplementary to an act entitled, "An act to authorize the construction of the Baltimore and Potomac Railroad in the District of Columbia," which I would like to have considered now if I can get the consent of the Senate for the purpose. The bill has once been passed by the Senate.

Mr. VEST. What became of the resolution offered by the Senator from Oregon [Mr. DOLPH]?

The VICE PRESIDENT. It is still pending.

Mr. VEST. Has the Senator from Oregon concluded his remarks?

Mr. DOLPH. I have concluded.

Mr. VEST. Then I move to amend the resolution by adding to it what I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add to the resolution the following:

And that the committee also inquire and report whether by State legislation any citizen of the United States has been denied the right to work on any public improvement of any State by reason of his color.

Mr. McPHERSON. Let the resolution as proposed to be amended be now read.

The VICE PRESIDENT. The resolution with the proposed amendment will be read.

The Chief Clerk read as follows:

Resolved, That the Committee on Privileges and Elections be, and they are hereby, directed to inquire and report to the Senate without delay whether the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of any State, being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crime; and that the committee also inquire and report whether by State legislation any citizen of the United States has been denied the right to work on any public improvement of any State by reason of his color.

Mr. VEST. Mr. President, every good citizen of the United States without regard to section or political affiliation will sympathize in the solicitude of the Senator from Oregon [Mr. DOLPH] for the preservation of honest and impartial suffrage and giving to every citizen the constitutional rights to which he is entitled in that regard. There is a right, however, antecedent and superior to the right of suffrage, and that is the privilege of every human being, citizen or not, to obey the divine injunction "in the sweat of thy face thou shalt eat thy bread." It is the right of self-sustenance; it is the right of self-preservation; it is a human and a divine right, because it exists under the laws of man and comes from the law of God.

Now, sir, when the Senator from Oregon expends his logic and eloquence upon the wrongs of the colored people of the South, I simply desire with even-handed justice to call his attention to the legislation of a Republican legislative body in the State of Oregon which deprives the negro citizen of the right to labor upon the works of public improvement in that Commonwealth.

I quote from a statute of Oregon enacted February 18, 1889, as follows. It is a law to authorize the Astoria and South Coast Railway Company to construct a bridge across Young's Bay and Skipanon Creek, in the county of Clatsop and State of Oregon, the third section of which reads as follows:

That on filing an acceptance of the terms of this act by the said corporation in the office of the secretary of state, signed by the president and attested by the secretary, and upon entering into an agreement with the State of Oregon by the said corporation that in the construction of said bridge or bridges, or either of them, none but white labor shall be employed, which agreement shall be filed with the secretary of state, the company may proceed with the construction of said bridge or bridges.

Mr. President, it will be said as a matter of course that this was to exclude Chinese labor, but the language of the law is "white labor" and excludes the Mongolian, the Indian, and the negro, and it is remarkable if the construction which I have anticipated be put upon this law that in the extreme solicitude of the Republicans of the State of Oregon this word "white" should have been adopted instead of merely excluding the Mongolian.

But, Mr. President, more than that. This matter was particularly called to the attention of the people of Oregon at that time and just before and since. My friend, the junior Senator from Oregon [Mr. MITCHELL], at the last session introduced a petition here from the negroes of the city of Portland, Oregon, in which they asked for legislation by Congress to protect the negroes of the South from the unjust labor system imposed by the white planters upon the colored race in that section. Sir, if any Democratic State had upon its statute book a statute like that I have read what lambent flames of oratory would burst from the opposite side of this Chamber. There would be an appeal for military authority to crush out this violation of the constitutional privileges of the poorest and humblest citizens in the United States.

It is impossible to put any other construction upon this law of the State of Oregon except that the negroes are excluded from labor upon the construction of bridges in that State by the enactment of a Republican Legislature.

Under this law not one of the 250,000 negro soldiers who fought for the United States and whose valor has been so much extolled in this Chamber could draw one dollar for his labor upon the bridges authorized to be constructed by this Legislative Assembly. Whatever may be said of the Democratic States of this Union, not one of them has ever denied to a negro the right to earn his bread and that of his family by his own honest labor. Not one Democratic State has ever perpetrated this outrage. But here we find in the Senator's own State, the Senator now so solicitous as to outrages perpetrated upon the African race elsewhere, a statute unparalleled in its outrage upon the first and divine right of every human being to earn his bread under the immediate command of God.

Mr. BUTLER. Mr. President, may I ask the Senator from Oregon [Mr. DOLPH] if he has an inaugural address of the governor of Oregon now upon that subject? If so, I should be very glad to have it read in juxtaposition with the extract from the inaugural of the governor of my State on the race question. In the absence of such literature I should be very glad if the Senator would invoke the kind offices of his governor in behalf of the colored race in the State of Oregon.

Mr. DOLPH. Mr. President, I presume the amendment offered by the Senator from Missouri [Mr. VEST] has accomplished its purpose. If not I have no objection to its being adopted as a separate resolution. I have not a particle of objection to the inquiry which is proposed by it, but I think the Senator will hardly claim that it is at all connected with the right of suffrage or apportionment or that it should be attached to this resolution, and I hope, therefore, when the proper time comes he will withdraw it and offer it, if he desires to do so and he thinks the inquiry important, as a separate resolution.

I have never seen the bill to which the Senator alludes. He knows himself that the bill is inoperative and probably void because Congress

has already passed a law providing for a bridge over those same waters, and has therefore probably taken the power out of the hands of the State. The bridge is not permitted by the Federal authorities to be built. But that is not pertinent to the question.

Mr. VEST. If my friend will permit me, it is not a bill, but it is an act of the Legislature of Oregon passed by both the senate and house and approved by the governor.

Mr. DOLPH. Very likely; I said it was not very pertinent to the fact to state that, but it is a fact that the United States has already asserted its jurisdiction over the waters where the bridge is to be built before the State law was passed, and as a consequence the Secretary of War or the engineer officers of the Army under the Secretary of War will not permit the bridge to be built under the State authority.

This argument of the Senator from Missouri is precisely the argument made upon the Federal elections bill by Senators on the other side of the Chamber from the time it was taken up for discussion in the Senate. The very first set speech made upon the bill was a speech in which it was said that the negroes were not elected to office by the Republican party in the North, just as if the right to hold office was violated if men were not elected to office. The right to hold office is the right to run for office and to get votes enough to be elected if they can be got; and there are many white people who can not get offices although their right is not interfered with. Then we had a long essay about the superiority of the white race, the fact that it had governed the world in the past and the right was claimed for it to govern the world as the elder brother and on account of its superiority. Then we had called up and rehashed to us the supposed condition of the South when the colored citizens entitled to vote were permitted to vote, and the improvement in public affairs which had taken place since their vote was suppressed and since the minority of the South governed.

At the same time it was substantially denied that the things which are alleged on this side of the Chamber in regard to the suppression of the negro vote are true. That is not consistent. The inference to be drawn from the arguments on the other side is that as colored people are not elected to office by either party in the North, that because the white race has been the dominant race and the governing race in past ages and is a superior race, therefore a white man can go to a colored man in the South, who owns a horse or a piece of land or has a child, and say, "I will take this horse, I will deprive you of this land, I will take your child, because citizens of your race are not elected to office by the Republican party in the North, because the white race is the governing race and has always been, because it is the superior race. For these reasons this thing which the law gives you, which you have bought and paid for, I will take from you."

The laws of the Southern States under the guaranties of the Constitution of the United States confer upon colored citizens of the United States equally with white citizens the right to vote. Every State officer takes an oath to sustain the Constitution of his State and to enforce the laws; and when I introduce a resolution to inquire whether the laws of the State have been violated, whether the Constitution of the United States has been violated, or whether certain acts have been done in the South by the Legislatures or the people of the Southern States through their State governments which require action by Congress in determining what the representation of the States shall be in the House of Representatives, my friend from Missouri rises with great gravity and says that in a bridge bill—he calls it a public work—a bill to provide for the construction of a bridge by a private corporation, for fear Chinese would be employed upon the work, it has been provided that none but white labor shall be employed. And that is his argument against this resolution. That is his answer to the claim which is made that the most sacred rights of American citizens are violated and denied in certain States of this Union. I say it is unworthy of the great powers and ability of the Senator from Missouri.

Now, about this Chinese business. Our friends on the other side of the Chamber are ever ready to thrust the Chinese question upon us in the discussion of the Southern question and to justify the acts which are claimed to be done and which are done in the South in violation of the rights of colored citizens by the treatment of the Chinese on the Pacific coast. Mr. President, the circumstances are entirely different. The Chinaman is not a citizen of the United States. He does not come to this country for the purpose of becoming a citizen.

Mr. BUTLER. He is a human being, though.

Mr. DOLPH. I will talk about that directly if you want me to do so. He has no interest in our institutions. The laws of the United States do not permit him to be naturalized. The objections of the people on the Pacific coast to the Chinaman are that he does not become a citizen of the United States; that he does not desire to become a citizen; that he is not assimilated; that he comes here merely for the purpose of working at wages upon which white laborers can not live; of hoarding his money and of returning to his native country, and also because his habits are such that they seriously affect the morals of the white people, the white boys and girls. Therefore, the people of the Pacific coast have asked Congress to legislate upon the subject for the restriction of Chinese immigration as a matter of public interest, in order to preserve in their integrity our free institutions and to protect American labor, and Congress has enacted such legislation.

All the outrages which have ever been perpetrated upon the Chinese have been without the connivance of the law-abiding and respectable people of the Pacific coast. Those outrages have been perpetrated by men who were not citizens of the United States, by the worst elements of society, by criminals and tramps, and the scum of the great cities, whose prejudices were incited by designing demagogues; and there has never been such an outrage perpetrated that all the power of the Government was not immediately put in force for its suppression, or, where it was threatened, for its prevention, and all the power the Government possessed has been exerted for the purpose of punishing the criminals. In Seattle——

Mr. BUTLER. Do we not do so?

Mr. DOLPH. I shall get to that directly. In Seattle, in the then Territory of Washington, at the time of the outbreak there, the very best men in the city (as I will call upon the Senators from the State of Washington to attest) organized themselves into a military company—preachers of the gospel, judges of the courts, lawyers, physicians, and laboring men—for the purpose of preserving the peace and protecting the Chinamen in their civil rights. It was the same thing in Tacoma. And when in the city of Portland such an outrage was threatened, the business people of the city, the professional men, the merchants, and the people of means banded together and armed themselves, and literally lay upon their arms, for the purpose of preventing an outbreak and of securing to the Chinaman his rights. If you go to the city of Portland to-day or the city of San Francisco you will find the Chinese right in the heart of both those cities carrying on their ordinary trade and occupation without molestation.

Mr. TELLER. Will the Senator from Oregon allow me to make a suggestion on a point he has overlooked?

Mr. DOLPH. Certainly.

Mr. TELLER. The governor of the then Territory of Washington took very active measures to protect the Chinese, as did the governor of Wyoming in a case of like character that occurred about the same time. The people of those Territories when they became States sent both of those governors here as their representatives, showing that the public sentiment sustained the governors in their attempt to protect those people from outrage.

Mr. DOLPH. Then the people who committed these outrages, so far as they could be found and identified, were presented to the grand jury and many of them indicted and some of them convicted and punished. How is it in the South? Will any Senator on that side of the Chamber undertake to tell me that the outrages which have been perpetrated in the South upon colored citizens of the United States, and in most instances for the purpose of depriving them of their right of suffrage, of intimidating them, have not been in most instances done with the consent and connivance of the communities in which they occurred?

Mr. BUTLER. If the Senator desires any reply upon that point I can say to him that his statement as to these outrages upon the colored citizens being connived at and sustained by respectable portions of the community is untrue, absolutely untrue and without foundation.

Mr. DOLPH. While I am not going to say at this time——

Mr. PASCO. If the Senator from Oregon will permit me, I will make the same statement for the State which I have the honor in part to represent as that made by the Senator from South Carolina.

Mr. DOLPH. I am very glad to have it. I intended to make some remarks hereafter on the elections bill. I did not intend to dwell upon that part of the subject, but if Senators want the evidence upon that issue they can have it. So far as the Senator from South Carolina is concerned, I have already put a witness on the stand upon that question, the governor of his State.

Mr. BUTLER. And I am very much obliged to the Senator from Oregon for putting that evidence before the Senate, and I am perfectly willing to stand by the utterance of that State. It is a conclusive proof to my mind, and it ought to be to that of the Senator, if he will take an impartial and nonpartisan view of this question, that there are no people on this continent or on this earth who are half so anxious to settle what difficulties arise between the races as the people of the South; and I will say to the Senator, if he will pardon me, that it is these constant unjust imputations and perversions of the truth that continue the irritation between the races in the South.

Mr. DOLPH. I am informed by a Senator on this side of the Chamber that before some committee of investigation in which the Senator from South Carolina made a statement he said himself that he had stated to certain colored citizens of the United States who were in his employ, or at least whose employment was under his control, that if they voted the Republican ticket he would discharge them.

Mr. BUTLER. Whoever made that statement, Mr. President, is guilty of a deliberate and willful falsehood—a deliberate and willful falsehood——

Mr. HOAR. Mr. President——

Mr. BUTLER. And I charge the author of it, whether he be a Senator or a citizen, with the fact that he has stated a deliberate and willful falsehood if he ever said I attempted in the remotest degree to influence any colored man under my employment.

Mr. HOAR. Mr. President, I supposed that I had read within twenty-four hours the testimony of the Senator from South Carolina before a

committee of this body or of the other House, in which he stated that he had told the colored people on his plantation that he should dismiss them from his employment if they voted for one of the Republican party who was then a candidate. Now, if there is any mistake about that I am very sorry. I made the statement to the Senator from Oregon myself.

Mr. BUTLER. Then my remark applies to the Senator from Massachusetts. Of course, if he makes it he makes it from his own authority.

Mr. HOAR. I am not to be deterred from saying what I have to say——

Mr. BUTLER. I do not propose to deter the Senator.

Mr. HOAR. By that manner or behavior. I have read that in a public document within twenty-four hours, as I supposed. If there is any mistake about it, I am mistaken.

Mr. GIBSON. Mr. President, I do not——

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from Louisiana?

Mr. DOLPH. I do.

Mr. GIBSON. Just for a moment. I do not intend to participate in the debate at this time, but as the treatment of the colored man of the South is the subject in dispute I desire to summon a witness, who is Dr. Mayo, I think perhaps known to the Senator from Massachusetts. I should like to hear from him whether Dr. Mayo as a citizen of Massachusetts is not honored and respected by the people of that State.

Mr. DOLPH. I do not wish to yield to have an extract read.

Mr. GIBSON. I am going to read but one line.

Mr. DOLPH. Oh, very well.

Mr. GIBSON. I desired in the first place to state from whom this line emanated. It is to be found in the few remarks of Dr. Mayo in the Mohonk conference on the negro question which assembled at Lake Mohonk, Ulster County, New York, June 4, 5, and 6, 1890. This gentleman has been engaged for a great many years under the Peabody Association, or at least with its sanction, in visiting the Southern States as a sort of minister in the work of education. He is a competent observer, and I think in many respects a just observer as to the condition of society in the Southern States and the relations of the white people to the colored people in those States. I will read but one line. Dr. Mayo says:

> In all essential respects, the negro citizen is better off in the South than in any Northern State.

Now, there is a witness who is not in politics, like the Senator from Oregon, and who would "make the worse appear the better cause" perhaps, nor like the Senator from Massachusetts, who proposes to go South with this bill in his hands to purify and benefit the Southern people by forming an alliance with the ignorant classes in the South and to coerce them by supervisors and deputy marshals into voting the Republican ticket, but a gentleman who has dedicated his life to the promotion of education and to the welfare of his fellow-citizens.

Mr. DOLPH. Mr. President, I do not propose to discuss at length at this time this question of the treatment of the colored man in the South. I alluded to it incidentally, and I shall take an opportunity to discuss it later if the discussion is continued upon the elections bill. I have on many occasions when the Chinese and other matters connected with the Pacific coast have been referred to here felt a great inclination to say something upon this subject. I have refrained from it more because it is an unpleasant subject for me to discuss than for any other reason. I bear no man any malice. I hope when I discuss this question I shall discuss it dispassionately and reasonably.

But what are the facts? The facts are that there are 7,000,000 of colored people in the South. In some of the States of the Union they are in the majority. In some of the Southern States the colored citizens over twenty-one years of age are in the majority. The testimony that comes from every quarter and that of the governor whose message I quoted from this morning is to the effect that they are Republicans, and if allowed to vote, and vote as they wish, they will vote the Republican ticket.

Mr. GRAY. That is the reason why the Senator is so anxious about them.

Mr. BLAIR. A good reason, too.

Mr. DOLPH. That is a very cheap argument. I suppose that the reason why the Senator from Delaware is so anxious that they shall not vote is because they vote the Republican ticket.

Mr. GRAY. A great many vote the Democratic ticket.

Mr. DOLPH. I undertake to say that if they voted the Democratic ticket and the Congress of the United States should undertake to prevent them from voting, to provide that they should not vote, we should have every Senator on that side of the Chamber denouncing the interference of the United States upon that question.

Mr. GRAY. Oh, a great many will vote the Democratic ticket if you will let them.

Mr. BLAIR. Why do you not let them, then?

Mr. GIBSON. The Senator has made a statement, but furnished no testimony.

Mr. GRAY. The United States Government in Washington will not let them.

Mr. DOLPH. One at a time, and then I can hear what is said. I did not hear what the Senator from Louisiana said.

Mr. GIBSON. I observed that the Senator from Oregon had made a statement and that he had furnished no testimony in support of his statement. As he lives in a distant part of the United States, far remote from the Southern States, I think he might defer a little to the representatives of the people from the Southern States, to the Senators who are commissioned by the people of the Southern States, in order to ascertain what the condition of society is in the Southern States.

Mr. DOLPH. I do defer. There is not one of you who does not get up and defend that thing. You may deny its existence in words, but when you get upon your feet in this discussion you say that it is the right of the white man to govern; that public affairs were not conducted properly when the colored man was allowed to vote under what you are pleased to term "carpet-bag government," and you object to this election bill, which proposes to secure the right to vote, because it will place your States under what you are pleased to term colored rule, under Republican rule.

Mr. GIBSON. I have not heard a Senator from a Southern State bring forward such an answer in support of his argument against this bill.

Mr. DOLPH. It has been done in every speech that has been made on that side.

Mr. GRAY. That is not true.

Mr. DOLPH. It has been done in effect.

Mr. GIBSON. I have heard the argument made here that the bill is unconstitutional, that it is destructive of the institutions of self-government, that it is a partisan bill, and I do not believe that if this bill were to pass you could subvert society even with the force that you have invoked here. It was tried under the carpet-bag system of government, which was upheld for many years over the Southern people. It is not necessary for me to detain the Senate here to picture to you the distrust and ruin that were wrought.

Mr. DOLPH. You have done it before.

Mr. GIBSON. The Southern States were prostrated under the heel of negro and carpetbagger, backed by bayonets of the United States; but I tell the Senator from Oregon now, and the Senator from Massachusetts, that such is the strength and inherent force of the ideas of self-government among the Southern people (and I include the colored people of the South with the white people of the South) that this bill which is intended to coerce the Southern people, that is, the negro people in the South, to band them together in a bond against the intelligence and the property and the virtue of the South, will not produce the results which you seek to produce. I believe that the constitution of Southern society is so strong, that the ancient maxims of Anglo-Saxon liberty are so inwrought in the framework of Southern society, and that the white race in that section have carried forward this colored race so far in civilization that no matter what bills of coercion may be adopted by the Government of the United States they will prove unavailing to overthrow the institutions of self-government in the South. This bill may produce temporary disorder; it may cause a loss of values by agitating society; it may produce heart-burning; it may produce some strife; but it can never enslave the white people of the South to the ignorance which the colored people unfortunately possess.

Mr. GRAY. The passage of this bill will produce no more disorder in the South than it will do in the North.

Mr. GIBSON. It will produce no more disorder in the South to-day than it will in the North. Southern society, thank God, rests upon the old solid foundations of Anglo-Saxon liberty. The prosperity which has beamed upon us under a more conservative and liberal administration of the Government, both by the Democratic party and the Republican party in recent years has strengthened the South so much in all the elements of civilization that this bill is not only not necessary, but it will be futile in the attempt which is made to give the Republican party supremacy in that section by an alliance with the ignorance that prevails there.

Mr. DOLPH. Mr. President, I rose to say a few words in answer to the suggestion of the Senator from Missouri. I do not desire this morning to enter into a discussion of the Federal elections bill, and I shall not yield further. I desire to conclude now what I have to say upon the subject of the pending resolution.

The argument of the Senator from Louisiana just made is but a repetition of the arguments which have been made on that side of the Chamber to the effect that the colored man, although he is entitled to the ballot under the laws of the State of Louisiana and under the Constitution of the United States, is unfit to exercise the franchise; that the governing race is the white race, the Anglo-Saxon race, and that their government can only secure to the State of Louisiana good government; and therefore let the United States pass this law, and the law itself and all the powers of the General Government back of it can not secure to the colored voter of the South the exercise of his right to vote——

Mr. GIBSON. That is not my argument.

Mr. DOLPH. Because that will be, as the Senator says, a suppression of liberty and the overthrowing of the governing class.

Mr. GIBSON. Mr. President——

Mr. DOLPH. I have a right to put my own construction upon your remarks.

Mr. GIBSON. I only wish to state one reason, if the Senator will allow me.

The VICE PRESIDENT. The Senator from Oregon declines to yield, the Chair understands.

Mr. DOLPH (to Mr. GIBSON). Go on.

Mr. GIBSON. Mr. President, I will not take over two or three minutes and I will not display the passion the Senator from Oregon does. I wish to say that we believe that the people who possess the largest portion of the resources of civilization, the property, the wealth, the intelligence, the aptitude for government in every society where freedom prevails, will always be the controlling people, even if an inferior class of people who were held in slavery, who are not educated, who are landless, outnumber the other race somewhat. In my State, for instance, the colored people under the last census outnumber somewhat the white people, but there are more white voters in Louisiana than there are colored voters. The white people there own the property of the State, they are the educated people of the State, and it would be very natural in any condition of society that the elder race, so to speak, the race that held the others in slavery, should prevail, because the whole theory of republican government rests upon the idea that intelligence and virtue and character and property rule in every well-organized State. That is the theory. If he will read the earlier writers on republican government the Senator will see that intelligence and education are considered necessary to the safe maintenance of republican institutions.

Mr. DOLPH. Mr. President, I——

Mr. GIBSON. It is for that reason that the people who possess the largest portion of the resources of civilization in every free society will always control. This bill, as I take it, is an attempt to organize the people who do not possess property, the people who are not educated, the people who were recently held in slavery, the people who are still unfortunately in a great measure uneducated, so as to cast their vote against the property and the intelligence and the civilization which should possess the land.

Mr. DOLPH. Mr. President, I must, at the risk of being thought ill-natured, decline to be interrupted again until I conclude what I want to say. Two o'clock will soon arrive, and I want the pending resolution disposed of.

I repeat, the argument that has just been made by the Senator from Louisiana is precisely what I claim it to be, and what all his previous arguments have been. If we were now discussing the question as to who should have the right to vote under the laws of the State and under the laws of the United States, all that he has said would be pertinent; but we are confronted by a condition and not a theory. The colored citizen of the South has the right to vote, and that under the laws of the very State which the Senator represents in part. It is one of the most sacred rights which a citizen can have and exercise; the proper exercise of it is necessary for the continuance of the republican form of government, and whenever a minority—or I will state it stronger than that—whenever a majority deprives a minority, by violence, by intimidation, or by force, of the exercise of that right, then liberty is overthrown, constitutional government is overthrown; we have no longer a republican government, but a government of a class. That is just what I have been talking about. The Senator contends for the right of a minority in his own State by reason of their superior intelligence——

Mr. GIBSON. The Senator will allow me to say that I do not.

Mr. DOLPH. By reason of their superior wealth——

Mr. GIBSON. I do not.

Mr. DOLPH. By reason of their superior fitness to govern the majority; and if that can not be done except by suppressing the votes, by depriving the majority of their right to vote, then he is for doing that; and there is no other logical deduction from his argument.

Mr. GIBSON. I am as much opposed to that as the Senator himself.

Mr. DOLPH. I must decline to yield.

The VICE PRESIDENT. The Senator from Oregon declines to yield further.

Mr. DOLPH. I say that is the logical deduction from every argument that has been made on that side of the Chamber, and there is no escaping from it.

I admit all that the gentlemen say about the superiority of the white race; I admit all they say about the superiority of their capacity to govern as a rule, but I undertake to say that there is a large class of the white population of the South who are no more fit to be intrusted with the elective franchise than the colored citizens of the South; that the relative qualifications of the whites and the blacks is being constantly changed; that in many sections where the facilities for acquiring education are limited the colored population are making better use of their advantages than the white population, and they are improving more rapidly than the whites in knowledge.

Mr. President, while this right exists on the part of this large class of our citizens in the South, while if they exercised fairly and freely the right of suffrage and their votes were counted they would control the local governments of the States, they do not control them in any State. We hear it on that side of the Chamber, and we read it in the public prints, from a thousand sources the declaration comes to us that they will not be permitted to control the governments of those States, which means simply that they shall not be permitted to vote. When we undertake to legislate within the constitutional power of Congress in order to secure, not generally, not in State elections for the choice of State officers, but for the purpose of securing a fair ballot of American citizens in choosing the members of the House of Representatives, this measure is stigmatized as a force bill. There is no force in it but the force of law. It is intended not to suppress any vote or control any vote. The Senator knows as well as I do that if a United States marshal or supervisor of election undertakes to control a vote by any improper means he would be as amenable to the law as any citizen of the South. The proposed law is intended not to give rights, not to provide qualifications for voters, not to interfere with the laws of the States, because they confer all the rights conferred on citizens to vote, but to see that when the citizen desires to exercise the right conferred by State laws no man shall step up and at the point of a gun tell him he shall not vote, and that after he has voted his vote shall be counted and the result certified. It is intended to prevent stuffing ballot boxes and rifling ballot boxes, bribing men to vote and being bribed, and refusing to register those who are entitled to vote, and registering those who are not entitled to vote, making a false certification of the vote when cast, and other crimes against the suffrage. Still Senators on the other side call it a force bill!

The VICE PRESIDENT. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which is the bill (H. R. 11045) to amend and supplement the election laws of the United States and to provide for the more efficient enforcement of such laws, and for other purposes.

ENROLLED BILLS SIGNED.

A message from the House of Representatives announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice President:

A bill (H. R. 11527) to amend chapter 1065 of the acts of the first session of the Fiftieth Congress; and

A bill (H. R. 12447) to authorize the payment of drawback or rebate in certain cases.

FRENCH SPOLIATION CLAIMS.

The VICE PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of that court in certain spoliation claims; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

ELECTION SUPERVISORS IN ARKANSAS.

The VICE PRESIDENT laid before the Senate the following communication from the Attorney-General; which was read, and, with the accompanying papers, ordered to lie on the table and be printed:

DEPARTMENT OF JUSTICE,
Washington, D. C., December 11, 1890.

SIR: I have the honor to acknowledge the receipt of the resolution of the Senate of the 9th instant, as follows:

"*Resolved*, That the Attorney-General is hereby directed to send to the Senate, without delay, a statement of the number of supervisors of election appointed in the First and Second Congressional districts of the State of Arkansas for the Congressional election held November 4, 1890, and a full statement of the sums of money that have been paid or called for in connection with said election in said districts or in connection with any proceedings which have taken place since said election. He will also state the nature of all such subsequent proceedings, if any, by whom taken, for what purpose, and by what authority.

"He is likewise directed to report if any deputy United States marshals were in or ordered to the county of Lee, in said first district, and the county of Conway, in said second district, and, if so, to state the numbers and dispositions of these deputy marshals, the purpose of their presence in these counties at that time, by what authority, and by whom ordered, the expense of such action, and what was done by them immediately before or after or on the day of said election."

In answer, I have to say that most of the information sought will have to be obtained by correspondence with the officers in Arkansas. No record of deputy marshals or supervisors is kept here. I have written there asking such information. In the mean time, I may say, however, that I have had no communication with any one in reference to the action of deputy marshals or supervisors for Arkansas, except the general instructions given to all marshals prior to the election, and have no knowledge as to what has been done in the premises. It is certain, however, that no money has been or can be paid for any services of deputy marshals or supervisors in either the First or Second Congressional districts of Arkansas, because neither of them contains a city or town of 20,000 people, as I understand, nor, so far as I know, has any request been made for any money for such purpose to be used in either of said districts.

When an answer is received to a letter requesting information upon this subject from the marshal in Arkansas, a further communication will be made to the Senate in response to this resolution.

Very respectfully,

W. H. H. MILLER, *Attorney-General.*

THE PRESIDENT OF THE SENATE.

UNITED STATES ELECTIONS.

The Senate, as in Committee of the Whole, resumed the consideratian of the bill (H. R. 11045) to amend and supplement the election laws of the United States, and to provide for the more efficient enforcement of such laws, and for other purposes.

Mr. BLODGETT. Mr. President, I will not detain the Senate long by the few remarks which I wish to make on this bill. My objections to

it are general—from my standpoint, fundamental—and I shall state them as shortly and comprehensively as I am able.

It will not be expected that I should enter into a critical examination of the special provisions and details of the bill. As a layman, not largely versed in legislation, I would leave the discussion of details and criticism of mere methods to lawyers and legislators of larger experience. Upon these subjects, therefore, I yield to other Senators better trained for such contests and better skilled in the weapons of debate.

But, while I admit my inferiority in these particulars, I acknowledge no superior in simple love for my country and its institutions, which I inherited from my fathers, nor in attachment to the great Democratic principles, in which I was educated, the value of which principles I have seen more and more illustrated each day of my political life. These were never more valuable to our country than they are in this hour, and it seems to me that they were never more deliberately threatened than they are by the ideas and objects of this bill.

My first great objection to this measure is that it unsettles society and threatens the peace, prosperity, and development of a considerable portion of our common country.

It is a cardinal principle of our Government, absolutely necessary, I think, to a Government which aspires to direct and control a continent of free peoples, that each considerable community shall be left, as far as may be, to work out its own development, through its own processes, and in its own way, so long as these do not wantonly attack the general good.

That orderly movement of civil society which we call peace is certainly the best result of organized government in any community, and development and prosperity follow in its train.

To the plain apprehension of a common man, looking only to the welfare of his country and the progress and happiness of all the people, this measure seems fraught with unnumbered dangers to the peaceful and quiet condition of an important part of our country. The history of the world shows that the peace of a great community, necessarily composed of diverse and oftentimes adverse individual elements, can only be found and maintained in harmony with those ideas, feelings, and sympathies which have been impressed upon it, and ingrafted into its own nature by long years of common development and progress. Fortunately such communities, when left entirely free in their natural development, are largely influenced by a common incentive of progress, governed largely by a common perception and consciousness of what is best and fittest for all, and controlled by a common sense of right and justice in their larger and more practical application.

Individuals and classes are constantly yielding up something of interest, feeling, or prejudice to the common good. Daily and hourly association in the common relations of life; common reliance on the orderly progress of civilized society; common interests, rivalries, and rewards, all tend to harmonize and consolidate individual and even race characteristics and antagonisms, till in the lapse of time and the progress of events the whole mass, perhaps insensibly, but surely, is found to be moving in a common stream of development and progress, bearing with it (wherever deserved) success to each in his sphere, and to the community general improvement, peace, prosperity, and happiness.

This is the natural condition of peace; and thus is constituted a peaceful society, existing for the benefit of the whole nation, and (guided rather than restrained by law) moving with orderly processes to the common ends of national greatness and power. In our times and among men of our race and history this condition can only be obtained under that union of liberty and law which we call "free government," and the highest success of such government is exhibited where these elements are joined in the best proportions. This condition, it seems to me, is seriously threatened by a withdrawal under the provisions of this bill of the most essential element of popular assent from the methods and guaranties of popular elections.

Popular assent in the general movements of government is indeed the "universal solvent" which harmonizes opinions and consolidates society. It is essential to the strength and efficiency of all free government. Without it, antagonistic elements are let loose, divisions are encouraged, and strife fomented, until, amid the clash of contending interests, feelings, and prejudices, the influence of the right is weakened, the sanctions of the law are disturbed, and sometimes order itself is lost. Therefore it is that the wisest statesmen of all ages and countries have deprecated the unnecessary imposition upon any community of laws which are at war with the consolidated sentiment of the people.

Such laws are rarely honestly or fully executed; never without abridging the freedom of individual action and withdrawing the elements of popular assent, so essential to the condition of free government. They disorganize the harmonious constituents of peaceful society; they bring the law itself, and with it all law, into disrepute; and they are in fact dangerous, though insidious, attacks upon the system of popular government itself. It has grown into a political maxim, sanctioned by the experience of all governments and peoples, that no law which can not be fully executed should be made; and it follows that one which can not be put into operation without disturbing the essential results of good government in the community to which it is applied should never be enacted, except under the pressure of absolute necessity. The unnatural strain put by such laws on orderly society is too great to be unnecessarily applied; and the resulting shock to free government is too dangerous to be lightly encountered.

This, then, is my first general objection to this law. It is so clearly against the general sentiments and feelings of the intelligent portion of the community where it is intended to operate that, while it is likely to be futile in any beneficial effects, it exposes to injury and danger interests larger and wider than those it attempts to protect.

My second objection is less general, but not less fundamental. The measures herein enacted, it seems to me, are, as a system, in direct antagonism to the democratic spirit of popular government. It is a principle of our system of government, essential to its democratic character, that all officers who are charged with the immediate direction and control of the people's action in the conduct of popular affairs should be, as far as is practicable, appointed by and responsible to the people themselves.

The vital check upon official power in the control of popular affairs, which is so necessary to freedom in government, is provided under our system through the frequent and unrestrained election of our popular officers. The official is thus wisely left dependent upon the judgment of those who know him and feel the results of his actions. Thus the people's will acts with frequent and unrestrained power upon the character and conduct of those who transiently govern, but yet are wholly responsible to them.

This is the old Democratic idea of that wholesome restraint and responsibility of official power necessary to the proper maintenance of freedom in government. Under all systems a necessity for some check exists. The best absolute government has been said to be "absolutism tempered by assassination;" but the best free government will be found in recognized official power, tempered by constant responsibility to the popular will, expressed in frequently occurring and unrestrained popular elections.

There is no subject which comes more directly home to the people and is more important to the maintenance of their power than their right of electing their representative officers. It is certainly true that nothing is more essential to free government than the proper conduct and honest effect of these elections; it is the subject in which the people themselves are most directly interested; and it is a condition of popular government that this subject should be freely intrusted to their patriotism and intelligence. This can hardly be denied to the people of any intelligent community without at the same time questioning their capacity for popular government. Certainly we are not ready at this time to do this directly in those sections where this law is specially applied; and certainly no measures tending wholly in that direction should be enacted, except under the pressure of strong necessity, and for the accomplishment of "the greatest good to the greatest number."

In the larger operations of government, sometimes what seems to be right for individuals, and even for classes, is found to be a dangerous wrong to all. Sacrifices are necessary in all conditions of human life; and sometimes it happens in the conduct of governmental affairs that what seem to be the rights of individuals, and at times even of classes, lose their quality of right in the danger with which their recognition threatens some essential principle of general good, and perhaps the very spirit of popular government itself. The measures here proposed are essentially undemocratic, not only at variance with the established customs of the past, but in direct antagonism to the idea of popular government and popular responsibility.

The supervisors of the elections provided for in this bill are empowered to certify results with an authority which will, in the first instance, decide all disputed questions, however vital, and the "boards of canvass" of the several districts, constituting a new species of national returning boards (not an honored name among the American people), are clothed with extensive and unrestrained power to act upon the direct interests of the voters. But none of these officials are selected by the people or are by any means directly responsible to their judgment. They are all, in fact, selected under the jurisdiction of, are appointed by, and are wholly responsible to the judiciary of the United States, that power in our Government which is the furthest removed from the people by duties, character, appointment, and tenure of office.

Thus we have in control of the popular elections under this bill a body of election officers responsible only to a judicial tribunal, neither constituted for the duty imposed, nor fitted by character, situation, nor habits for its proper discharge. This inconsistent duty (imposed, not sought) is not only inconsistent with the proper division of powers under our system of government, and in direct conflict with its spirit, but it will be found to be unsatisfactory to the people for whose benefit it is supposed to be exercised; and, I fear, most injurious to the tribunal itself. It is not only essential that elections should be fair, but it is also important that they should be felt and acknowledged to be fair and fairly conducted by the community whose welfare is affected by them.

No such result is possible where the official power controlling them is lifted above responsibility to the people and rests wholly upon authority, completely removed by character, situation, and habit from knowledge of or association with the people, an authority far removed

also by assured position and tenure of office from the influence of the natural and constantly occurring changes, developments, and progress of popular will, and, for the same reasons, not unlikely to remain in direct opposition to it. No man recognizes more fully than I do the all-important and beneficial position of the judiciary in that system, of separate but co-ordinate powers, which makes up the Government established by our fathers.

Each in its own sphere, restrained and held in place each by the other, and each pursuing its own line of established duty and power, helps efficiently, in association with its co-ordinates, to make a government which commands the confidence of the people and compels the respect of the world. But when the harmony of the system is disturbed by usurpation or by imposition upon one member of this evenly balanced government of powers, duties, and responsibilities, not only not bestowed on it by the Constitution, but wholly inconsistent with its own nature and with the spirit of the government it represents, then a blow is struck at the Constitution itself, which will be felt first by the unfortunate member itself, then by the rights of which it is the proper guardian, and then by the whole system of which it is a part.

I think I foresee that this unsought duty, ruthlessly imposed by this bill, will, insensibly perhaps, but surely, work a disastrous effect upon the judiciary, its character, its dignity, and its influence, as well as upon the popular respect for it and for the laws of which it is the constituted expounder, and also upon the great governmental interests which are specially committed to its charge. Let us pause before we drag the court into the arena of political excitement.

If you arm it with political power and require of it the exercise of political functions, you will expose it and all that it represents to the heat of political contests and the danger of political attacks, and, when these come there will come with them a great danger to our country and its Government.

These objections are fundamental, not special; national, not partisan. The Senate will bear me witness that I have not approached this subject in any partisan spirit. I would not quarrel with the motives nor question the patriotism of other gentlemen with larger experience and wider information than myself because I may differ with them as to the value and ultimate effect of any great measure; but I feel it to be my duty to myself and to the patriotic State which I in part represent to enter my protest against what I consider a portentous danger as well as a wrong.

We should reflect before we act, even in behalf of what we may consider abstract right and justice to individuals or classes, before we undertake to carry out party or even governmental pledges, and consider whether we are not at the same time sacrificing larger interests and endangering governmental sanctions of greater importance to our country and to the whole people than those we are attempting to protect.

Mr. WALTHALL said:

Mr. PRESIDENT: Before I enter upon a discussion of the pending bill I desire to call the attention of the Senate, and especially of the Senator from Iowa, to some passages in his remarks made yesterday, as reported in the RECORD to-day, in which a most remarkable use is made of parts of sentences which the Senator has taken from a speech delivered by me in January last.

Here is one:

Let each citizen, be he white or colored, cast his vote as is his right, and have it counted as it may be cast. "Oh, no!" rejoins the Senator from Mississippi [Mr. WALTHALL], for—

"We must have to day four hundred thousand more negroes than white people in Mississippi, and it is estimated by some that more negroes moved into the counties composing the Yazoo delta in the first three months of the year 1889 than there were white immigrants who settled in the entire State in the same time."

Now, Mr. President, the words "Oh, no" in this passage, which seem to be attributed to me, are not my words, but the Senator's and the language quoted immediately afterwards, which, without these words, would not serve the Senator's purpose, was a part of a sentence referring to the census reports and used in the following connection.

I had quoted from a speech of Mr. Oliver P. Morton made in 1865, in which, referring to negroes, among other things, he said:

At the end of ten, fifteen, or twenty years let them come into the enjoyment of their political rights. By that time these Southern States will have been so completely filled up by immigration from the North and from Europe that the negroes will be in a permanent minority. Why? Because the negroes have no immigration—nothing but the natural increase—while we have immigration from all the world and natural increase besides. Thus, by postponing the thing only until such time as the negroes are qualified to enjoy political rights, the dangers I have been considering would have fully passed away, their influence would no longer be dangerous in the manner I have indicated, and a conflict of races would not be more likely to happen there than it now is in Massachusetts. In Massachusetts the negroes have exercised political rights for twenty-five years, and yet there has been no disturbance there, no conflict of races. Why? Because the negroes have been in the minority. They cannot elect a man of their own color to any office, to bring up that prejudice of race. I believe what I have stated will be the way in which the question will work itself out.

Commenting on this prediction of Mr. Morton as to white immigration into the South, I used this language, and in it, as will be seen, the sentence, part of which was quoted by the Senator, appears:

In the light of subsequent events see how his project has worked out. If we may adopt the census reports as being even approximately correct, we find that since he made his prediction the negro population of Mississippi, from being in 1870 about 60,000 more than the white, was 170,000 more in 1880, and even with no greater rate of increase since we must have to-day about 400,000 more negroes than white people in Mississippi, and it is estimated by some that more negroes moved into the counties composing the Yazoo Delta in the first three months of the year 1889 than there were white immigrants who settled in the entire State in the same time.

Again the Senator said:

It would seem just to those rapidly increasing citizens that the State should give them encouragement to fit themselves for all the duties and responsibilities which citizenship casts upon them, and accord to them all proper opportunities for improvement in their general conditions. But it is suggested that this would be an unwise course for the State to pursue. Why? Because, the Senator [Mr. WALTHALL] says:

"The nearer an inferior race approaches successful competition with the white man the more the white man's antagonism and spirit of resistance are excited and aroused."

The words attributed to me, and which I used, when torn from their context would seem to commit me to the position that it "would be an unwise course for the State to pursue" to accord to the negroes all proper opportunities for improvement. They appear as part of a sentence in the following passage showing their connection:

If because of their intellectual, moral, physical, or social inferiority the negroes ought not to rule the whites or if by reason of a deep-seated race prejudice, unreasonable if you please, but still an existing fact, the whites can not live under such rule without constant friction and disturbance, how far can this evil be mitigated by education or the ownership of lands or goods? Is it not true—whether it ought to be or not is not the question—under the laws of nature, which we can neither alter nor repea, lthat the nearer an inferior race approaches successful competition with the white man the more the white man's antagonism and spirit of resistance are exited and aroused?

On the same page the following appears, which clearly shows my position as to the opportunities which I think ought to be afforded the negroes for improvement:

I am not arguing against the acquisition of either knowledge or property by the negro, for, in common with the body of the white people in Mississippi, I am anxious to see him elevated by such means or any other that do not tend to drag us down to his level. The beneficent policy of that State, especially in the matter of education, has been illustrated by the liberal application of the taxes which the whites imposed on themselves for his benefit, applying, as has been done there for years, more than half of a large school fund, of which the whites pay more than 90 per cent., to the education of negro children on equal terms with the white children. This I have cordially advocated and approved, and trust my position may not be misunderstood.

I have deemed it due to myself to call attention to these matters, but do not care to comment upon the use which has been made, doubtless unintentionally, of detached fragments of my remarks.

In what I have to say upon the pending measure I do not propose to deal with those aspects of it which have been so thoroughly discussed by Senators on this side who have preceded me in this debate, but shall confine myself mainly to the damaging effect of any such legislation upon the relations of black and white voters to each other in that section of the Union where the question of race relations is the matter of paramount importance.

The provisions of this bill are general, and by its terms it applies alike to all the States, but it can not be seriously disputed that the South as a distinct section of the Union is the chief objective point of the legislation now proposed.

The bill does not openly disclose a design to throw the weight and force of Federal power in Congressional elections to the side of any class against another, but it can not be plausibly pretended that this is not its leading object.

No purpose is declared to stimulate the inferior race in the Southern States to contend with the white race for the mastery in politics, but such a purpose would be no more unmistakable than it is if it were expressed in words in every line of the pending measure. There is no recital that the governing motive is to secure a party advantage at any cost to the white race in the South by increasing the Republican forces in the House of Representatives, but that motive would be no more clearly revealed if it were distinctly set forth in the title and in all the terms of the bill.

The proposition, so far as concerns the Southern States, in effect is simply this: To arm a horde of partisans with Federal power and distribute them over these States to excite the negro's opposition in politics to his white neighbor, with whom now he is at peace, to put the power of the Government behind him, and urge him forward to try his strength, backed up by national support.

The effect will be to stimulate race antagonisms, to distinctly draw anew the partially obliterated color line in Southern politics, to excite the white man's apprehension of negro domination, and strengthen his resolution to prevent it, and to revive in the credulous and impulsive blacks hopes of power which can not be fulfilled.

Should this bill become a law, in many districts in the South Congressional elections will turn upon none of the political issues on which parties elsewhere are divided, but the paramount question will be whether the whites or the blacks shall name the Representatives and the rulers of the people.

The common ground on which the two races might meet but for such a law will disappear whenever it is enacted, and every disposition toward conciliation and concession will, I fear, be displaced by a spirit of aggression and retaliation, of resistance and resentment, in the revulsion which its enforcement will inevitably produce. Discord and disquiet, contention, and strife will be its fruits, social order will be

disturbed, business interrupted, prosperity hindered, and the slow but gradual adjustment of race relations, which time is working in the South, will be arrested, suspended, and defeated.

Seeing that these results must surely come if this bill is enacted into law and living in a State where perhaps the heaviest calamities would fall, I appeal to Senators on the other side to consider whether the doubtful prospect of party advantage can justify this arbitrary and dangerous interruption of the relations which now exist between the whites and blacks in the southern section of the Union.

These relations are far from satisfactory to the people most concerned, and some of them have been anxiously casting about for expedients and plans by which to improve them through the action of the State governments, and most of them would willingly submit to any sacrifice of interest or any surrender of representation in Congress or in the Electoral College to reach a safe and certain solution of their peculiar difficulties. But to my mind, if there be one thing certain connected with the great race problem which is before us, it is that its workings can not be regulated by iron rules, nor its solution hastened by arbitrary laws.

It is because my observation and experience have taught me this that I earnestly deprecate the passage of the bill proposed or any kindred measure; and in discussing the subject I will pass over the question of constitutional power involved, which has been ably discussed by others, and treat it from the standpoint of expediency; for, speaking for myself alone, I consider that there is power enough to uphold a Federal election law, which, when freed from the constitutional objections which are good against this bill, will yet be most harmful and pernicious in its operation upon the paramount question which most vitally and directly affects the people of both races in the Southern States. Strip this bill of every objectionable feature in it which has been most discussed here and there will yet remain in the bare fact that the General Government is interfering in Southern elections enough to aggravate and intensify the difficulties of the Southern situation, which now seem gradually to be disappearing.

The President of the United States, in his first annual message to the present Congress, advises us that—

> In many parts of our country where the colored population is large the people of that race are, by various devices, deprived of any effective exercise of their political rights and of many of their civil rights.

We know, of course, that he had reference to the Southern States, and when he added that—

> it has been the hope of every patriot that a sense of justice and of respect for the law would work a gradual cure of these flagrant evils—

there was implied some appreciation of the difficulties of the Southern situation and some knowledge that the cure for its evils, which patriots hope for, can neither be radical nor sudden, nor arbitrarily applied, but must be the work and the growth of time.

That the process of correction must be gradual, that no drastic remedy can hurry it, that no radical innovation upon the usages of this Government which have prevailed for a century can advance it, that the employment of no party machinery put in motion under harsh Federal legislation can cure the evil, must be apparent to all who will consider its origin and its character. That the difficulty of dealing with it is appreciated not alone by us of the South, but by distinguished Northern Senators who have carefully considered the subject is, apparent from their repeated declarations on this floor.

But a short time ago the senior Senator from Kansas [Mr. INGALLS] said:

> Upon the threshold of our second century, Mr. President, we are confronted with the most formidable and portentous problem ever submitted to a free people for solution, complex, unprecedented, involving social, moral, and political considerations, party supremacy, and in the estimation of many, although not in my own, in its ultimate consequences the existence of our system of government. Its gravity can not be exaggerated and its discussion has been deferred too long. Its solution will demand all the resources of the statesmanship of the present and the future to prevent a crisis that may become a catastrophe. It should be approached with candor, with solemnity, with patriotic purpose, with fearless scrutiny, without subterfuge, and without reserve.

He also said:

> History contains no record of two separate races peacefully existing upon terms of absolute social and political equality under the same system of government. Antagonism is inevitable. They become rivals and competitors, and in the struggle for supremacy the weaker has gone down.

Later, the senior Senator from Colorado [Mr. TELLER], who comes from a section where the curse of race diversity has been seriously felt, in discussing the subject in the Senate showed his appreciation of the "portentous problem" and his sympathy with the people whose bitter fortune it is to be ever confronted by it, but he told us with his characteristic frankness that he "could not offer any solution."

Those acquainted with the irreconcilable differences of habits and character which obtain between two absolutely distinct races, and who have come to realize that these essential differences spring from natural causes, will all tell you, Mr. President, that they are susceptible of no arbitrary adjustment and that the solution of the problem with which we have to deal will never be found in any law which the Congress of the United States can enact.

The Senator from Colorado showed how fully he realized that the process of correcting the evils of the Southern situation must be gradual, and how much he thought was due to the people most concerned, and how much in doubt he was as to what was best when he said:

> I do not know what can be done. I know what you can try. You can try to lift up and elevate those who have been downtrodden, to put them on a higher intellectual and moral plane; and when you do that you will have our aid. I do not want for myself drastic laws to compel you to treat them properly; I want you to do it without. I want you to do it because it is right that it should be done, and I am willing, so far as I am concerned, to trust you, to trust the people of that section, if they will but show a disposition on their part to take hold and try to solve this great question; and if we can aid you we are ready and willing so to do.
>
> We are not insensible to your difficulties. We know what they are. We know the dominant character of our race as depicted here from the seat in front of me by the President *pro tempore* of the Senate. He did not say any too much. We know how careless they are of the rights of other men if those rights come in conflict with theirs. We make due allowance for that. We have got it, and we put the question to ourselves and say, "If met face to face with this great question, what would we do?" and the answer in our hearts is, "We do not know."

In the last Congress the Senator from Massachusetts [Mr. HOAR], in the course of some remarks which he submitted on the condition of the South, said:

> I make them with full knowledge of the difficult problem that awaits us, and the problem that especially concerns our friends south of Mason and Dixon's line.

And when he added:

> We will pour out our money like water; you may tax us by the ten millions, or the thousand million, if it is needed, to give these people the intelligence and education which is necessary to fit them to live with you as citizens—

he gave the weight of his sanction to the opinion that the fitting process must be the slow work and steady growth of time. If so disposed I might go on and read the expressions of other statesmen here and elsewhere and of many great writers who have discussed the subject, showing that the difficulties of the problem can not be overstated; that the solution, whatever it is to be, must of necessity be gradual, and that from the very nature of the problem the people at the scene of its practical workings and most concerned in the result must be largely trusted in its solution.

These people may make mistakes; it would be strange if they did not, when great statesmen and philosophers confess themselves baffled by the peculiarities and complications of the question. They may sometimes break the law and forget the duty which those of one class owe to the citizenship of another class and different race suddenly raised to a plane of political equality with themselves, and it would be strange if they did not, when we consider the natural spirit of aggression and intolerance which in all ages has marked the race to which they belong. They may do many things which those in different circumstances may adjudge harsh and oppressive, and it would be strange if they did not, when we remember that those who find fault with them have never lived where they live, have never seen what is before them always, have never suffered what they constantly endure, and have never been brought face to face with the perils and the trials which, for a quarter of a century, have been incident to their daily life.

But when we consider what these people had to do and what they have accomplished, when we observe the gradual adjustment of the relations of the races to each other and to the State which has been steadily progressing in the South in the face of many difficulties, we see the proofs that the condition as it is, unsatisfactory though it may be, is so marvelous an improvement upon the condition as it was that nothing short of absolute certainty that harsh enactments here will not arrest but will in fact advance that improvement can excuse us for resorting to such legislation as is now proposed.

The President, in discussing in connection with the matter of elections this question, which so directly affects the Southern communities, said in his message:

> If it is said that these communities must work out this problem for themselves, we have a right to ask whether they are at work upon it.

And in alluding to the duty of the present generation in respect of it he said:

> The consultation should proceed with candor, calmness, and great patience; upon the lines of justice and humanity, not of prejudice and cruelty.

If the vast duties of the President's high office had not denied him the opportunity to look into this matter with that "calmness and great patience" which he properly enjoins upon us, he would have been constrained to inform us, with that "candor" which he advises, not only that the Southern communities are "at work" upon the problem which involves everything to them, but that, although proceeding under disadvantages and amid dangers, the work they have done and are doing, while not perfect and sometimes inconsiderately performed, has yet been attended with partial success and all that gradual improvement which the difficulties of the situation would allow.

When the President was a member of this body, and before, Southern affairs were repeatedly investigated by committees of the Senate. His party was in control here then as now, and from the damaging reports submitted by these committees he doubtless in large part derived his opinion that in many localities in the South the colored population were deprived of the exercise of their civil and political rights.

Since he has been in his high office those from that section who have had his ear have had a direct personal and party interest in impressing

upon him that the same condition obtains there to-day, in magnifying every disturbance of the peace, from whatever cause arising, into a great political crime, and in turning him away from the counsels of those, even of his own party, more identified with the real interests of that section, who could and would represent to him with candor the situation there as it actually exists.

The partisan press since his installation, as before, has been busy in its work of defamation, making prominent the shortcomings of the people of that section, distorting their misfortunes into crimes, and suppressing every fact which might tend to commend them to the sympathy, or even the just judgment, of their countrymen in the North in their struggle to deal fairly with the problem before them and at the same time preserve their Christian civilization, which they can not and will not and dare not surrender.

It is not surprising that the President should not know whether and with what effect the Southern people are "at work" upon this problem when we consider what we have been accustomed to hear, even in this liberal and conservative body, in relation to Southern affairs.

In the five years and nine months since I have had the honor to be a member of the Senate Southern elections have repeatedly been the subjects of discussion here. Sometimes these discussions had direct reference to the matter under consideration at the time, but as often they have incidentally arisen in debates to which they have no apparent relation. But however and wherever they have occurred such terms as "murder" and "violence" and "fraud" have been so freely and so frequently employed in connection with those elections that a bystander, ignorant or oblivious of the truth, would conclude that every Democratic triumph in a Southern State was solely and directly due either to bloodshed or to fraud and that there is no right of citizenship which a negro in the South is permitted to enjoy.

I have never disputed that in the State I represent in part illegal acts have been committed in connection with elections in the past; but I have claimed that palliation for these wrongs is found in the struggles of a spirited but downtrodden people to save themselves from greater wrongs than any they committed for their own protection.

I do not now claim that all elections in that State at this day are free from reprehensible practices and lawless methods, but I do contend that such vices there, which are denounced here, no more deserve condemnation than other methods of suppressing or corrupting the expression of the popular will, which the world knows are practiced in other quarters of the country.

I claim that, whatever criticism, just or unjust, is made upon the South for violence and other wrongs in connection with her elections, it is a fact beyond dispute that when we look at the past and compare it with the present we see the evidences every year that the tendency has been away from violence and lawlessness and toward tolerance and justice, while in some other sections election practices have been going from bad to worse. Against the election just over in Mississippi I have heard no intimation from any source of the slightest illegality or irregularity at any precinct in the State.

Those who have heard the sweeping charges of violence, to which I have alluded, made and reiterated here, will probably be surprised when I state that during the five years and more that I have been here, listening to these charges, up to the passage of this bill in the House, so far as I know or believe, no negro and no Republican, white or black, has lost either life or limb at or in connection with any election anywhere in the State of Mississippi. In so large a State, with more than a thousand voting precincts, some disturbances of the peace due to political causes in so long a period might reasonably be expected to occur, but the statement I have made of my own belief is supported by a letter now in my hands from Ex-Governor Lowry, who, until the beginning of the present year, was the governor of Mississippi during all the time to which that statement refers.

Desiring to have my own impressions confirmed or corrected and knowing that his official position afforded him the best means of information, I addressed him a note of inquiry, and in his answer, dated the 26th day of February, 1890, he says:

> In response to your favor of the 22d instant, I have to say that I do not recall a single instance in any of the seventy-four counties in this State during the past five years where anyone was either killed or wounded on account of elections or politics.

Compare this record with that of any other State, large or small, and if any Senator can produce a better one from his own State, wherever situated or however exempt from the trying conditions existing in the South, let him be the first to arraign Mississippi for violence connected with elections or growing out of political differences. If my statement be too broad, the means of correction are in easy reach, for there are many negro politicians and some white Republicans from that State now in this city holding office under the present Administration, and others seeking such appointments as are sometimes bestowed in these days in return for campaign material furnished against the white people of the South, and any of these will be eager to provide the facts, if they exist, on which the statement can be contradicted.

This record, if even approximately correct when compared with the reports of Senate committees upon violence in elections in previous years, will show that the people of Mississippi have been earnestly "at work" upon the problem which confronts and threatens them, and that their work, though not perfect, has been effective for peace, and law, and order.

One of these reports was made six years ago, and though it had special reference to a particular county it dealt with the general condition of the entire State as to violence and bloodshed in connection with elections. Another was made at an earlier day, and the inquiry in relation to these subjects embraced the State at large. In both cases many instances of violence and murder were reported as committed by Democrats upon Republicans, whose only offense, as alleged, was their political faith.

If no such instance has occurred in the State within the period I have named; if, in that time, with the help of those who live by the slander of the Southern people, no Senator here can name one victim who has fallen upon the soil of Mississippi because he was a Republican, then I have the right to claim, in answer to the President's inquiry, that here is the evidence of one long stride at least, and that in the matter of human life, which a Southern community in a situation of peculiar trial has taken in the direction of that justice and respect for the law which are to work a gradual cure for the evils which he says exist in the Southern States.

In one of these reports a particular county is described as in a deplorable condition of lawlessness and anarchy, and horrid deeds of violence committed by Democrats upon Republicans are vividly described as having occurred in connection with the election of the year before. Since then perfect peace and good order have prevailed in that county, the relations between the races and between political parties, as I understand, have steadily improved, until now they seem satisfactory and agreeable to both. There is now no more orderly county in the Union; the races there are working together for their common benefit, and I predict, on the faith of what I have lately heard, that the forthcoming census report will show a greater relative improvement in the material and business condition of that county than any other in the State, unless there be some exception due to railroad construction or other like cause.

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

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

Mr. WALTHALL. For a question, sir.

Mr. EDMUNDS. I should like to inquire whether in the particular county to which my honorable friend now refers the perpetrators of the supposed acts of violence were brought to justice or ever tried or convicted.

Mr. WALTHALL. I think the chief party accused in connection with the matter referred to was tried regularly by a jury, before a judge of high standing, and was acquitted.

Mr. EDMUNDS. Yes, acquitted; that is what I supposed.

Mr. MORGAN. I suppose the Senator from Vermont wanted him convicted whether he was guilty or not, of course.

Mr. EDMUNDS. No, the Senator hardly supposes that.

Mr. MORGAN. Yes, I do, from your remarks.

Mr. EDMUNDS. Then the Senator is more crazy than usual.

Mr. WALTHALL. Mr. President, I believe I have the floor. Does the Senator from Vermont accept the acquittal of the party, without knowing anything about the facts, as evidence of his guilt?

Mr. EDMUNDS. No, I do not, Mr. President, if my honorable friend will allow me; but I can readily understand, as human history has taught most intelligent people to understand, that a state of peace and absence of violence may follow unpunished violence when the tyrants and the aristocracy have once got into power. Therefore, I can understand that it is possible—I do not know whether it is true or not, but it is possible—that all liberty having been repressed in a particular county or State there will be a state of peace in the sense of nobody needing to be killed any more.

Mr. WALTHALL. Does the Senator from Vermont understand anything about the matter that I was referring to when he interrupted me?

Mr. EDMUNDS. I beg the Senator's pardon.

Mr. WALTHALL. I asked if the Senator from Vermont was familiar with the history of the county that I was referring to when he interrupted me.

Mr. EDMUNDS. No, not at all.

Mr. WALTHALL. I was referring to it for the purpose of showing a great improvement in the relations of the races to each other in that county.

Mr. EDMUNDS. I am not familiar with it at all, any more than I am with the state of Poland, where there is peace.

Mr. WALTHALL. I imagined that the Senator from Vermont, as he admits, was entirely ignorant of the matter in regard to which he proposed to get into a colloquy with me, and I will proceed.

In the other report, after describing various assassinations and kindred wrongs in connection with elections, the committee represent that in twenty-two named counties in the State the Democratic victory in the last preceding election was due to outrages of the character described. Within the period referred to there has not been a drop of

any Republican's blood, black or white, shed in any one of these counties at or in connection with an election or with politics, so far as I can learn. If there has been I hope the proof will be produced, for I have no desire and there is no occasion to exaggerate the contrast between the real condition of all these counties as it is known to be now and as it was reported by the committee to the Senate.

Mr. President, in what I have said to illustrate the gradual disappearance of such political conflicts and troubles as have been reported in Mississippi I will not be understood as claiming that no election wrongs are committed there or that there is no lawless element there who commit great offenses from the motives of ordinary criminals. As in other States of the Union, so in Mississippi we have our burdens of crimes to bear, but we have race antagonism to account for, if not to palliate, some grave infractions of the law which originate in conditions from which the people in other sections are happily exempt.

The presence of two diverse races in constant contact with each other, wholly dissimilar in tastes, habits, character, training, and aspirations, has been a fruitful source of friction and disturbance, and while the process of adjustment has been progressing there have been some tragic interruptions. This is liable to be so as long as human nature remains unchanged, in spite of all efforts to prevent it by the best of both races or by the ministers of the law.

Within the last few years there have been several race collisions in Mississippi, some more serious than others, but none of them comparable to the outbreak at Rock Springs, in Wyoming, which has been often referred to on this floor, where numbers of harmless and docile Chinamen, in the face of laws and treaties, were murdered with impunity by a white mob as the result of the same instinct of race antagonism which has led to deeds of blood in the Southern States.

Not one of them was due to any party cause. I realize that when I say this I run in the face of prejudgment, which, though unjust, is not wholly unnatural, when we consider that a groundless accusation may be repeated and reiterated, published and republished, until it fixes its impression upon even the fairest-minded men. I know that I encounter a prejudice built up by years of partisan perversion and systematic sectional assailment almost as deeply rooted now as race prejudice itself, when I assert that the latter is the true secret and moving cause of most of those troubles in the South which are ascribed to party tyranny. But the fact is indisputable, and it can not be too often repeated by those of us who know, as many here can never do in their full extent, the trials and irritations, the burdens and the perils, of the people who are doomed to live in the midst of a heavy negro population.

These race outbreaks to which I have referred are constantly employed as illustrations of party oppression in the South, but each and every one of them, I assert, and could show if there were time to state the details, originated in the instinct of race antipathy, and nothing else.

In the localities where these occurrences took place, peace and quiet have since prevailed and the two races move on together with less liability to conflict than in others where there have been no collisions to remind both whites and blacks that constant care and prudence and temperate and considerate action are the price of their safety.

These disturbances occur and pass away, but they teach their lessons. Out of such bitter experiences there seems to come, though at heavy cost, some tendency, slow though it may be, toward conciliation and concession, moderation and forbearance, to show that time must work its gradual cure, if there be a cure, for the evils and the jars which are the natural, and at times apparently unavoidable, offspring of race repugnance. That they are in the last degree to be lamented, none know better or feel more keenly than they whose daily life is darkened, whose interests are damaged, and their safety imperiled by these recurring interruptions and constant menaces; but we must ignore the teachings of history and the warnings of experience and be blind to the patent proofs before us if we do not accept the fact as a stubborn reality that they are sometimes inevitable and unavoidable under nature's own inexorable laws.

The feeling, prejudice, whatever one chooses to call it—

which lies at the bottom of the trouble in the South, as lately expressed by a writer in the New York Tribune—

is one of those realities which can not be overcome by legislation, or by persuasion, or by logic, or by rhetoric, or by reproaches, or by sarcasm. If it can be overcome at all or by any means, the slow incidence of time, but not necessarily the influence of education, may effect the change. So far, all that can be said is that it depends upon no relations between the races; that it has shown itself in some respects stronger in the North and since emancipation than it was in the South during slavery; that it is greatly to be regretted in all its phases; but that no remedy for it has hitherto been found or suggested. The truth seems to be that for all our boasts of advanced civilization the most forward races in the world are still very thick-skinned, very selfish, and very tolerant of inequitable conditions which do not affect themselves. In proof the impossibility of abolishing various forms of white slavery up to the present time may be cited. Here no race prejudice can be alleged, but the callousness, the cruelty, the insensibility, are in all respects the same. What is needed apparently is a great lifting of human nature to a higher plane, and when we reflect upon the length of time it has taken to bring humanity to where it stands to day, it is impossible, save to an enthusiast, to anticipate a speedy change great enough to bring about the extinction of the worst faults and vices of the race as it exists.

I know there are some high in our esteem here, and in the confidence of the public, who make no adequate allowance for the instinct of race repugnance. In their lives they have been exempt from its curses and know nothing of the troubles it breeds and the dangers it entails. Their association with colored people has been limited in the main to the rare exceptions of the race and has removed them from contact with its types and spared them the exhibition of its repulsive traits and characteristics which offend some of the best instincts of the white race.

In the last Congress the honorable Senator from Massachusetts [Mr. HOAR], referring to Southern men, spoke of them as "men with as gallant, noble, and honorable traits, where this race prejudice does not get possession of their souls, as ever existed on the face of the earth."

How does this prejudice get possession of gallant, noble and honorable men? They did not originate it, they do not cultivate it, and are not responsible for it, and, except so far as it is a safeguard against the degradation of their own race, they would extinguish it. If they made a pretense of it as an excuse for crime or used it as a pretext for oppression or for mere party advantage, they would not be the brave and honorable men they are and were described to be by the Senator when he added:

They have some qualities which I can not even presume to claim in an equal degree for the people among whom I myself dwell. They have an aptness for command which makes the Southern gentleman wherever he goes not a peer only, but a prince. They have a love of home; they have, the best of them and the most of them, inherited from the great race from which they come the sense of duty and the instict of honor as no other people on the face of the earth. They are lovers of home. They have not the mean traits that grow up somewhere in places where money-making is the chief end of life. They have, above all and giving value to all, that supreme and superb constancy which, without regard to personal ambition, without yielding to the temptation of wealth, without getting tired, and without getting diverted, can pursue a great public object in and out, year after year, and generation after generation.

What motive could such men, so devoted to duty, have to pretend to a prejudice which, if simulated for a purpose, would be unworthy of the gallant and the noble and incompatible with every sentiment of honor and justice? The brave never oppress the weak, men devoted to duty commit no willful wrong, and honorable men are incapable of deceit.

Passing now from this matter I desire to call attention to what seems to be an organized effort in some quarters to conceal from the public every fact calculated to show any improvement in the relative status of the white and black races in the Southern States and to keep alive the suspicion with which many Northern men are prone to look upon the conduct and professions of white Democrats of the South in relation to the negroes, all of whom are assumed to be Republicans simply because they are black.

Whether this be to subserve some general party purpose, such as furnishing a pretext for passing a harsh Federal election law, or to promote the political fortunes of particular Republican office-holders or office-hunters from the South, without reference to their merits, it is undeniable that the rankest injustice is being constantly done the white people of Mississippi in relation to their treatment of the negro population. When this bill was under discussion, before it came to us from the House, the arguments in support of it were mainly based upon a supposed necessity for it growing out of alleged violence and frauds in Southern elections.

Prominent among those discussed were the elections of 1888 in three Congressional districts in Mississippi, all of which were contested and the contests were then pending in the House. Hundreds of pages of testimony were taken in all these cases, and able arguments were made by attorneys who have been or are to be paid by the Government, to show that the sitting members, who are Democrats, are not entitled to their seats because of flagrant wrongs committed upon negro voters in these elections. After protracted examination and diligently searching through the voluminous records in these cases the Republican committee in charge of them have found nothing to excuse them for recommending that either of the contestees shall be unseated.

In one of these cases a report has already been made in favor of the sitting member, and it has been long ago printed in all the papers, and nowhere disputed, that reports have been agreed on in favor of the other two. Yet, sir, those acquainted with these facts have not hesitated to employ the claims preferred by Republican contestants in these cases and the accusations on which they were based as arguments in favor of a Federal election bill, just as if it were not publicly known that a partisan committee had adjudged that these claims were not sustained.

But there are other modes in which the Southern people have suffered great injustice in connection with this subject.

It will be remembered that early in the last session it was almost a daily occurrence for some Republican Senator to present a memorial purporting to come from citizens of some county in a Southern State, praying for a Federal election law. A dozen or so of these memorials have come from Mississippi, and any one generally acquainted in the State can readily recognize the work of the local politicians through whose activity and party zeal the signatures to them were obtained. Most of them are not very numerously signed, and in many instances the names appended are largely to all appearance in the same handwriting, a large majority of them, of course, being the names of ne-

groes. These memorials are all alike upon printed headings, naming the State, but leaving spaces for the counties to be inserted by the local party agents to whom the blanks are believed to have been transmitted from an organized political bureau in this city. The printed form used for Mississippi, and that for other States is like it, with the State's name changed, is as follows:

To the Congress of the United States:

The undersigned legal voters in the county of ——, State of Mississippi, pray for the passage of a national law securing a free ballot and an honest count in all elections of Representatives in Congress, and that in addition such laws may be passed by Congress as it may have power to enact for the enforcement of the fifteenth amendment of the Constitution, which provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

The presentation of these memorials purporting to come from several counties where I had reason to believe all classes of the population were contented, led me to examine them all. Among them I found one from Bolivar County with about as many names to it as to all the others combined, and this fact led me to look through the paper carefully, and to inquire particularly as to the status of race relations and political affairs in the county from which it came, and in other counties in the same section of the State.

The names to this memorial are in a number of different handwritings, and apparently the pages on which they are written were intrusted to different persons to obtain signatures in different quarters of the county, but occasionally an entire column was found manifestly written by the same hand, without even the customary "mark" which illiterates use for a signature. The list was headed by G. W. Gayles, a prominent colored politician in that section, and from this fact it might be imagined that he had been aggrieved in the matter to which the memorial relates or that he knew of some great wrong which his followers of his own race and party were suffering or had suffered in Bolivar County in connection with their privileges as voters.

Mr. President, it has not been long since that man completed a four years' term of service in the State senate of Mississippi, to which he was elected by a vote of the people, and he enjoyed every right and privilege pertaining to his office as fully and unreservedly as the most distinguished white senator who sat in the body with him. It is a fact worth noting here, for it is not without its significance, that the very next day but one after this memorial was presented in the senate a colored man in this same county was appointed one of the supervisors of the census, and as he was the only colored supervisor appointed from Mississippi, and but few elsewhere, and as his was the only county in the State from which so formidable a memorial has emanated, the inquiry suggests itself whether the appointment was not a reward for the memorial and the promise of it the explanation of such a paper coming from such a county.

Now, let us see whether there is the slightest foundation for the complaint implied in this memorial that there is not a free expression of the popular will in elections in that county where the colored voters, assumed to be Republicans, largely predominate. In 1888 that county gave Mr. Harrison over 800 majority. In 1884 it gave Mr. Blaine 1,760 votes to 317 for Cleveland. In 1880 it gave Garfield a majority of 757, and gave Hayes a larger majority in 1876; and other counties in the same section gave Republican majorities, some of them very heavy ones, in the Presidential elections in every one of these years. There is probably not a Senator who hears me, except my colleague, who would imagine that the results stated were possible, in view of the obvious meaning and purpose of the memorial to which I am referring.

I venture the statement as matter of opinion that there are more negroes in office this day in Bolivar County than in any other county in the United States and more than in entire States in the North which have always been under Republican control. Out of forty-four officeholders in that county, thirty-one of them are negroes, and if there be a Northern State with half as many I will thank some Senator to name it. That is a wealthy county, and the white population is intelligent and enterprising, and yet every constable in it is a negro; they have thirteen negro justices of the peace out of fifteen; two members of the board of supervisors are negroes, and so are the coroner and ranger, assessor, treasurer, circuit clerk, and one representative in the State Legislature, the county being entitled to but two.

I have said thus much about this one county, because of all the stereotyped memorials which purport to come from Mississippi, no one of them has one-fourth, and some of them not one-tenth, as many names appended as that from Bolivar County, and I wish the Senate to see what gross injustice is being done purposely, apparently, systematically, certainly, to the people of Mississippi in connection with the treatment of negroes there; and I use this county to illustrate the progress that is being made in dealing with the negro question in the direction of some gradual adjustment of the difficulties which attend it.

Isaiah T. Montgomery, one of the most intelligent and now the most distinguished Republican negro in Mississippi, with possibly two exceptions, and they both Republican office-holders who can not be expected to publicly dissent from any avowed policy of the President who appointed them, is a citizen of Bolivar County. He owns a considerable landed estate and other property in that county and the people there have lately honored him by electing him to a position of high trust and great responsibility. Here is what he said but a few weeks ago when asked by a representative of the New York World whether he thought a Federal election law would benefit his people:

The more I have studied this problem the more I have become convinced that our people must work out a solution of this problem all by themselves. If two men live neighbors to each other they will find some basis on which they can agree; if not one basis, then another; but they will find some basis. But if a stranger comes in and takes the part of one as against the other, the stranger must stay there all the time in order to preserve the situation. If he goes away the trouble forthwith breaks out again. So it would be with the force bill. If the Government undertakes to control the elections or any part of them it will have to continue that control, and we should gradually drift into a military despotism. I saw enough of that during the carpet-bag times.

But this county does not stand alone, and, while it is not a type of others in the State differently situated, its condition does not materially differ from that of other counties in the same region, all in the Congressional district, from which most extravagant and imaginative reports of election wrongs have been given to the public in newspapers published elsewhere and from other sources.

Adjoining that county on the north is Coahoma, which has one white and one black representative in the State Legislature, two colored members of the board of supervisors, nine colored justices of the peace, and six colored constables. That county gave its vote to Hayes, to Garfield, and to Blaine, and Mr. Harrison carried it by nearly a thousand majority.

Adjoining Bolivar on the south is Washington County. It sends a colored representative to the State Legislature; its circuit clerk, coroner and ranger, one-half of the justices of the peace, and one-half the constables are colored men, and there are two colored members of the city council and two of the city police in Greenville, the county site, a wealthy and thriving city with eight or ten thousand inhabitants.

Next below is Issaquena, whose only representative in the Legislature is a colored man, and the clerks of the circuit and chancery courts, the assessor, coroner and ranger, two supervisors, six justices of the peace, and seven constables are colored men; a white Republican is county surveyor, and out of thirty-one officers in the county but ten are filled by Democrats. This county, from 1876 to 1888, inclusive, has never failed to give a majority for the Republican candidate for President, and in 1884 Mr. Blaine carried it by more than five to one.

Adjoining Issaquena is Sharkey County, which sends but one representative to the Legislature, and he a colored man; and there are a number of other colored officers in the county, including several justices of the peace and constables.

Tunica County, which is in that same section, gave Hayes nearly 1,200 majority, and at every Presidential election since has given decided majorities for the Republican candidate.

Adams County, the home of John R. Lynch, who is loud in his complaints of the white Democracy of Mississippi, in three out of the last four Presidential elections has cast its vote for the Republican candidate, the majorities ranging from 700 to 1,200. In both the counties last named colored men have been repeatedly elected to office, and an educated colored Republican named Bowles, returned from Adams County to the last Legislature, took a high stand in that body, as did some others of his race.

I ask Senators on the other side to read the record of office-holding by Republican negroes in the counties I have named in a Southern State where it is charged that the white Democracy mercilessly dominates in all things political, and tell the Senate whether any Republican State, or any two of them, or ten of them, or all of them combined can make so good a showing of what Republican majorities have done for the negro, or permitted him to do for himself, while they have been controlling the politics of those States. No colored Senator or Member has ever come to Congress from any of those States.

None of them has ever had a colored governor or attorney general or treasurer or other high State officer, and all of them have not, as I believe, as many colored men in lower positions as there are in the few counties in Mississippi which I have named, where, as I have shown, scores of them to-day are in every official station which they can fill consistently with the safety and protection of public and private interests.

Mr. President, Mr. Harrison owes his high office to the colored vote, for if that had been thrown solidly against him in New York and Indiana it would have turned the tide of battle; but there is no negro in his Cabinet, he has none for his secretary, he chooses white men for his political counselors and companions, and rarely appoints any negro to office, except when his service is to be performed in the South, to irritate or humiliate some white community.

But look around here, and the condition is much the same in the other House, where, as here, the entire organization is under Republican control. The Secretary of the Senate and his assistants, the Sergeant-at-Arms and his, the Official Reporters, and all the doorkeepers who let us in and out of this Chamber and the galleries above, the man of God who prays for us, and the pages who serve us are all white. The negro is proscribed because of his inferiority, or, if not, it is done arbitrarily and without reason, and you who proscribe him, when you have the absolute control here, criticise Southern Democrats because they will not agree for him to dominate them absolutely and govern their States.

I make no complaint that we have no negro officers in the Senate, and I refer to the fact that there are none here to illustrate by contrast the liberality of the white Democracy in a number of counties in the State of Mississippi. I have given some details from these counties because the facts ought to be known to those who have been accustomed to hear and read the sweeping charges of party tyranny and race oppression which are constantly, and for a purpose, brought against the white people of that State, especially in the black belt to which my statement particularly refers.

If one tithe of what has been reported to the prejudice of those people, through committees of this body and otherwise, was true as stated, the facts which I relate show that they are not only at work upon the hard problem which has been given them to solve, but are making such progress that they should be left alone, at least until some better plan than that on which they are making their experiments can be proposed with a better prospect of more complete success.

But what say the negroes themselves? Montgomery, from whom I have just quoted, does not stand alone. The colored representative from Adams County, to whom I have referred, whose Republicanism is as orthodox as that of any Senator here, in a speech in February last in the Legislature of Mississippi, in referring to the race question, said:

> Let the two races alone without outside interference or partisanship, Federal or otherwise.

And he added:

> Members of both parties in Adams County are satisfied, happy, and contented.

I could bring you the proofs from every township and every neighborhood in Mississippi that not all, but the great bulk of the negro population, including not only the average man who labors in the fields of agriculture for his living, but the average educated man of that race whose aspiration is for the elevation of his race and not for social equality or black rule, if let alone do not desire that the Federal Government, either by an election law or any other measure, shall thrust itself between these races, which seem by degrees to be adjusting themselves to each other.

That the masses of the negroes, as distinguished from the malcontents and the feverish politicians and their adherents, whose numbers are comparatively small, do not want any arbitrary interference with the existing status is clearly shown by the fact that, notwithstanding the organized efforts which seem to have been made to inaugurate and advance a general movement for the purpose, but an insignificant number of memorials for relief have come up from that State where the black preponderance is heavier than in any other. Of all the negro voters in Mississippi, less than two thousand names, whether genuine or fictitious, barely 1 per cent. of the whole, appear to all these memorials combined, though exertions have been manifestly made to have them signed and forwarded here to be used as the pretext for Federal interference and the basis of Congressional action.

In the lower house of the last Mississippi Legislature there were six colored Republicans, and no members of the body were treated by their fellows with more consideration, fairness, and justice. They suffered no detriment on account of race or color and were subjected to no disadvantage nor the slightest disrespect. The immense majority of white Democrats were scrupulous in their observance of every right belonging to these colored representatives, whether as members of the body or as men, and the fact that they were absolutely at the mercy of that majority secured for them a degree of liberality and sympathy and valuable assistance in their labors such as was never elsewhere willingly accorded to a helpless minority in a legislative body.

Publicly and repeatedly these colored men expressed their appreciation of the liberal treatment they received, and when the Legislature adjourned they presented to the Democratic speaker a handsome testimonial of their appreciation. The presentation address was made by Hon. L. W. Moore, the colored representative from the same county of Bolivar, from which comes the memorial for relief with six hundred names appended, to which I have already referred. That this colored Republican may speak for himself and those he represents, I will read a few extracts from his remarks made in his own peculiar style:

> We are the only colored Republicans out of the number of one hundred and twenty members. Being in a hopeless minority on all political and race questions better enables us to perceive the slightest partiality in your rulings than a large majority could, and this expression at once shows you, sir, that we have fearfully watched lest we should be exposed to such action on your part as would be of disadvantage to us, but after having been at your mercy for nearly eight weeks, appreciating the fact that divers opportunities have presented themselves, we can joyfully boast that notwithstanding you are a Democrat and a white man, presiding over an almost white and Democratic Legislature, during this session, at which divers great race and party questions have shown up in its deliberations, you have bravely stood upon the firm rock of justice in your rulings; and so pure was your conduct that prejudice, with its scorpion head, dared not approach your stand.
>
> I was born in Mississippi, but raised in a Northern State; associations there led me to regard the Southern white men as dire foes to the negoes, but receiving such cordial and unprejudiced association upon this floor by the entire Democratic party here, these suspicions have been eliminated from the bosoms of these feeble six, and for them I am authorized to speak. You are our best friends; we are here together, and from preference and intention we will ever remain, and should the spirit manifested by this body prevail throughout the State it is a sure and certain solution of the race problem in Mississippi.

Handing to the white Democratic speaker of the house a present which he had been commissioned to deliver, this colored Republican proceeded to say:

> Take it, sir, as the permanent bridging of the race chasm in this State, offered by colored hands but pure hearts; take it as a guaranty that no apprehensions are further entertained by the colored people in this State. In tendering you this, we tender a grateful hand to every Democratic member, for in this house you have shown to be our friends, not our enemies.

Mr. President, should it be considered that incidents like this and such details as have been discussed by me to-day are not of sufficient general interest and importance to justify the consideration which I claim for them, my excuse is that they are facts full of significance and the highest proofs that can be offered that the Southern people are at work at the great problem on which their all is staked, and that the work is progressing well and rapidly enough to forbid the experiment of any new and foreign interference.

The people of the country have grown weary of theory and speculation upon this important subject; they are tired of rhetoric and generalities, of fiery eloquence laden with crimination and recrimination, and they want actual facts, though they may be commonplace and homely, if they but illustrate the practical workings of the problem and show what progress is being made towards its solution. On this idea I have descended to details, and if there were time I could extend the recital of proofs from respectable colored sources all over the South, going to show that whatever may be pretended by those who make politics a trade, whatever disregard of the political and civil rights of the negro may be made to appear by the fabrication of imaginary wrongs or the exaggeration of such as are real, still the fact is that the true interests of the blacks and whites alike will be best subserved by leaving to them and to the gradual process of time the adjustment of their relations to each other.

As this adjustment proceeds it will be subject from time to time to interruptions and discords; race friction will now and then produce its jars and strifes and bloodshed; partisanship and party machinations and the illiberality and harshness which attend exciting political campaigns may sometimes work injustice to the weaker side; but year by year some substantial progress may be hoped for in the future as year by year there has been marked advancement in the past. When Bowles, the colored representative, said in the Mississippi Legislature, "Let the two races alone, without outside interference or partisanship," speaking from the very heart of the section where the trouble lies and speaking for his own race with an experimental knowledge which none of us possess, he voiced the wishes and the judgment of the body of both races as to the only policy which promises any real good to either. He knew there had been race collisions in Mississippi in which his race had suffered grievously and he knew too that like occurrences were liable still to happen as the outcome of race diversity. He knew there had been violence, intimidation, and frauds in some elections in that State which hindered the free exercise of their franchise by the colored voters, and it may be assumed that he believed as I believe that a sudden and absolute reform in that respect can not be accomplished by any radical revolution where race considerations sometimes overbear all others in elections. He knows more of the conditions in Mississippi as affecting his race and knows better what is to their advantage than any Senator of his party on this floor.

He says, "Let the two races alone, without outside interference," and thousands like him, if their voices could reach us from the same State, would give us the same warning, for they know, in spite of all that has been said to the contrary, there is no State in this Union where the colored population, as a rule, are happier, more prosperous and contented, where they are more liberally dealt with by the whites, where they are more secure in the wages for their labor, where they get the benefit of more liberal legislation, where they receive more exact and equal justice in the courts, where the whites contribute more freely to their education, or where all the avenues of progress and advancement are more open to them than in Mississippi.

This statement I know does not square with the opinions of those who have never lived in the State and have accepted accounts of occasional acts of violence and particular instances of election wrongs as typical of the general situation there. But, sir, allowing for the disposition of every Senator to put his own people before the world as favorably as he may do fairly and truthfully, his knowledge of those among whom he lives, of their character, customs, and course of life, of their weaknesses, their prejudices, and their better qualities, must fit him, when he has no purpose to mislead, better than the partisan press or the partisan politician, better than any bureau of information organized to collect or to manufacture proofs to subserve some party purpose or some private end, far better even than any liberal statesman who gets his facts at second hand, to inform his associates and the country what is done and what is needed among the people whom he represents.

This I am now trying fairly to do, and I give you the result of my observation and my careful and anxious consideration when I say that the average negro in Mississippi representing the body of his race, is reasonably content with his condition, and realizes that it is steadily improving. And there is abundant reason why it should be so. As a rule, he is an agricultural laborer, fitted for no other employment, and in a section where there is no lack of farming lands and labor is the

need he can come nearer dictating to the land-owner what share of the product of his own toil shall be his than any other workingman in the world who serves an employer by contract.

There is no other State where the price of his labor is more securely fastened upon whatever it produces by a statutory lien imposed for his benefit. The law which gives him this advantage and other laws for his especial protection are the enactments of Legislatures in which he sits side by side with the white man and has his co-operation in legislating for the benefit of his own race. He is never a judge upon the bench, for he is unequal to the duties of such a place, and he is never a governor, and probably never will be, for he could not rule the State.

As a juror he shares in the administration of public justice to the full extent of his capacity, and as a witness he is under the same protection and subject to the same penalties that the white man is, no more and no less. As a suitor in the courts he receives impartial justice with such advantages as an upright judge may properly accord to the ignorant and dependent, and never, save by his own request, does his case go to a jury not composed in part of men of his own color.

If he is charged with crime, as a rule a white man is his security for his appearance to answer and stands for the expenses of his defense, and whether he be an employer, expecting indemnity for his outlay, or befriends the negro from some higher motive, in either case the negro has a white supporter and defender on his trial. Speaking from my own experience as a lawyer in the courts of Mississippi and from my later observations as a citizen, I assert that in the administration of public justice there, if there be any distinction made between the whites and blacks, it is in favor of the latter because of their weakness, dependence, and ignorance.

I have heard the question often asked whether white men are ever punished by the courts for offenses committed on the blacks. There are hundreds of men in Mississippi who have been committed to the common jails of their counties, and some now serving out long terms of imprisonment in the penitentiary for such offenses.

It has been often recklessly asserted that no white man was ever hung in any Southern State for the murder of a negro, and yet the record of criminal trials in a number of these States will gainsay this sweeping charge. The death penalty is not often inflicted anywhere, perhaps as rarely in the North as in the South.

Jurors naturally shrink from the imposition of that penalty when they have the power, as they have in Mississippi, to determine whether a murderer shall be hanged or imprisoned for the term of his natural life, and the latter is most frequently the judgment in every State where juries are invested with this discretion. But, sir, it has been but a few months since, by the verdict of a jury who had the power to fix the punishment, a white man was hung for the murder of a negro in the town I live in, and that when the only direct testimony against the accused came from negro witnesses. On that jury were ten white men, and all of them were Democrats, as were the defendant, the judge who presided, the district attorney who represented the State, as also his associate who was retained by white Democrats at their private expense to aid in the prosecution.

I was in the town when the trial was progressing and witnessed part of the proceedings; and although the defendant had his friends around him and his able and popular attorneys had great influence in the community, a State trial has rarely occurred anywhere in which the prosecution was better supported by a conservative, but decided, public sentiment for the enforcement of the law. When the case was removed to the supreme court on appeal, three Democratic judges, after patient examination, affirmed the judgment of condemnation which the court below had rendered. When the day for the prisoner's execution drew near, the usual change of feeling towards mercy's side occurred, and urgent and powerful appeals were pressed upon the governor for a commutation of the sentence to imprisonment for life; but the Democratic chief executive of the State refused to come between the law and the white Democrat who had been condemned to die for the murder of a negro upon the testimony of negro witnesses.

If it be said that this is an exceptional case and there has been none like it in the same State before, it loses none of its force as an illustration of the present sentiment of the community in which it occurred in favor of the equal enforcement of the laws for the punishment of crime, whether the offender or the victim be white or black, and is but another evidence that the Southern people are making sure and steady progress in their efforts to adjust the relations of the races and have the rights of both respected.

The proofs of this are to be seen on every hand, but nowhere do they more plainly appear than in the matter of education. In the last twenty years there has been an increase of 90,000 children, the majority being colored children, in the common schools of Mississippi, and most of this increase has occurred since the white Democracy has been governing this State. In 1889 there were enrolled in these schools over 170,000 colored children against less than 150,000 whites; and considerably more than a million of dollars, of which the negroes paid but a trifling sum, was applied to the education of these children, whites and blacks alike, on equal terms.

When it is considered that the total assessment of the property in the State is less than one hundred and sixty millions, the liberality of this appropriation for education in a single year will be apparent, and when we estimate how much of this fund is applied to the education of colored children, whose parents pay but little of it, it will be seen that the expenditure for colored education is munificent as it is commendable. The fact that mixed schools for the races have never been attempted in Mississippi, nor in any Southern State, simply shows that the Southern people from the beginning have accepted race repugnance as a reality which can not be made to yield to any abstraction or sentiment or any theory concerning the "universal brotherhood of man," and that instinctively they better understand the underlying and essential features of the great problem before them than the dreamers who are theorizing upon it in other sections of the Union.

Advocates of such a system claim that the effect would be to elevate the negro, and they would bring him close to the sons and daughters of the white race at the most impressible and susceptive period of their lives, that he may be raised to their plane by contact with them, and by their example. But, sir, equality thus produced would not be due alone to the process of elevation, but would come as much from leveling down as leveling up. Even if mixed schools could be conducted without irritation and strife, whatever advantage there might be for the negro in the imitation and the emulation of the white child's example would be largely lost by the familiarity which intimate association is sure to breed; and free and constant intercourse would gradually lower the white child toward the negro's plane with no corresponding advantage to the latter.

But, sir, race prejudice, however unreasonable and unrighteous it may be considered, seems to have been implanted in us for a purpose, and this will probably serve to spare us the curse of mixed schools, at least as a system generally established. Those who want the proof of this will find it in many localities in the North, where the serious disturbances produced by the attempt to educate the whites and blacks together show that the instinct of race repugnance is confined to no section nor latitude nor political organization.

This is recognized in all the measures which have been proposed here for the establishment of a system of national education, for all of them contemplate that there shall be, or may be, separate schools in every State. In sparsely settled regions in the South there would be considerable saving of money to the white people who pay the expenses of the common-school system to have mixed schools, but they elect to assume the heavier burdens of taxation in order to escape the disadvantages of such a system and to remove every cause or occasion for irritation or discord between the races.

The negroes have their separate colleges and high schools in Mississippi, as well as common schools, for which liberal appropriations are regularly made by the State, and a separate lunatic asylum is soon to be erected for them at heavy cost to the white tax-payers. The law of Mississippi requires every railroad company to provide separate cars for whites and blacks, equal in all their appointments and in every comfort and convenience. In this there is no discrimination, but it is simply an arrangement to avoid friction and promote harmonious relations.

It is a reciprocal arrangement, is absolutely just, is supported by public sentiment and enforced by the courts. The white man is as much prohibited from intruding upon the negro in the car allotted to him as the negro is from intruding upon the white man in that allotted to him. I have myself seen white men standing and have stood with them in a crowded car, mile after mile, of a tedious journey, when in the car adjoining, a duplicate in every respect, there were less than a dozen colored passengers and an abundance of unoccupied space; and nobody ventured, even under these circumstances, to impinge upon a reasonable regulation which the State law had established for a humane and prudent purpose.

There is no place for which the negro is fitted from which he is debarred in Mississippi, no position beyond his reach which he is competent to fill. He is not qualified to govern the State, to make its laws, to shape its policies, to control its destiny, to sit in power above its intelligent and enterprising white population, to impose public burdens upon their possessions, or to select for them their rulers and their representatives. Ignorant and dependent as he now is, he ought not to desire to do these things, and it may be said in general that left alone he does not, though some of the more aggressive of his race would lead the rest to strive for that which is alike improper and impossible.

Sometimes white men who live among them, from ambition or self-interest, array them against the dominant class, not to advance the negro's interest or to promote his aspirations, but they utilize his prejudices unworthily in order to improve their own political fortunes. Every such experiment but engenders irritation, complicates the race problem, and postpones the day of its ultimate solution, and such will be the effect of any effort which we may make here to hasten it by an arbitrary law.

Men remote from the seat of the trouble grow impatient because the Southern people do not move on more rapidly with the work of adjustment in which they are engaged, but they know nothing of the difficulties and the endless complexity of the undertaking. Similar exhibitions of impatience have been witnessed before, founded on ignorance and marked by injustice. When war was raging between the North

and South, not even the troops on either side who dared all the dangers of the field were free from the criticism of the sunshine patriots, who bought their substitutes and their exemptions, because every battle was not a victory, and the great generals who led the armies were coolly condemned by critics in their safe retreats because by some decisive triumph in a single engagement they did not terminate the war.

Those who bore the brunt of battle knew and saw and felt what was before them and around them, and often to them it seemed a victory to escape complete disaster; but the critics fretted and complained because a peace was not promptly conquered and the work of war progressed so slowly. It was no more possible, though for a different reason, for the issue of that gigantic conflict of arms to be settled by a single master-stroke of generalship or by a single feat of arms, than for the great problem of this age, with its social and moral features, its political complications, its race affinities and diversities, to be solved by the stroke of any statesman's pen or by any one act or any single measure which would interrupt or seek to hasten the gradual processes of time.

In conclusion, Mr. President, I ask the permission of the Senate to print, as an appendix to what I have said to-day, an extract from some remarks upon the subject now under discussion which I made in this body on the 27th day of last January.

The VICE PRESIDENT. Permission will be given, in the absence of objection.

The matter referred to is as follows:

APPENDIX.

Mr. WALTHALL said:

*   *   *   *   *   *

The proposition now is to invoke the power of Congress to regulate the manner of holding Congressional elections and employ it for the management of those elections by Federal agencies to the virtual exclusion of the State authorities. While the proposed legislation on its face applies alike to all the States, there has been no attempt to conceal the fact that it is aimed directly and especially at the Southern States.

The professed purpose is to secure the casting and counting of the negro vote "fairly," as its advocates say, which simply means to have it cast and counted for the Republican party, it being assumed that all negro voters are Republicans. On this assumption the hope is founded that from those districts where the negroes are in the majority, and those as well where there are enough white Republicans to make a majority when added to the entire negro vote, Republican members will be returned if a Federal law can be passed providing that these elections shall be held by Federal officers independent of State authority.

The plan is, virtually, to take the election machinery out of the hands of the people of the States and commit it to selected party agents, to multiply almost indefinitely the list of Federal appointees, to cover the States with an army of partisans armed with Federal power, to strip the people of privileges they have enjoyed since the foundation of the Government, trample on the usages of a century, and dictate the result of the elections. So radical a departure from established customs and the old law, such a menace to the rights of the States and the liberties of the people, such a perversion of a power from its true purpose and the prostitution of it to a mere party end, must meet the condemnation of all who value the principles and are imbued with the true spirit of our cherished form of government. The nominal warrant for this unprecedented exercise of Congressional power is claimed to be in section 4, Article I, of the Constitution, which is in these words:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regutations, except as to the places of choosing Senators."

If it be granted that here is found the authority to regulate Congressional elections, irrespective of the action or the nonaction of the State Legislatures on the subject, even if it be granted that in this power is involved the right to provide for the selection of the officers to conduct the elections, the protection of the voters, and the voting places, and the return of the result, yet we know it never entered into the contemplation of those who framed the Constitution that this power would ever be invoked against one political organization or one class of citizens, or one race, and that their own race, to increase the strength and influence of another.

The power in question seems to have been conferred upon Congress for the single purpose of guarding against the dissolution of the Government by the nonaction of the States.

The States appear to have been all opposed to the concession of the power, and to have yielded it reluctantly, most of them under protest, and all because to withhold it would be to leave the existence of the Union entirely at the mercy of the State Legislatures; and for more than half a century all parties seemed agreed that there should be no exercise of this power. It was never employed for any purpose up to 1842, and then only to provide that Congressman should be elected by separate districts, instead of by general ticket, according to the regulations in force in a number of the States. But, with this single exception, this power was never employed by Congress until the present Republican party came into existence.

Even the act of 1842 was so distasteful in some quarters that the conservative State of New Hampshire rebelled against it, and at first neither that State, nor Missouri, nor Georgia, nor Mississippi would conform to it. These four States elected their Representatives to the Twenty-eighth Congress by general ticket, and the fact that the House of Representatives found reasons to admit them in the face of the act of 1842 shows with what jealousy in that day the slightest Federal interference in these elections was regarded.

Leaving to others the discussion of other aspects of this subject and viewing it from the standpoint of expediency, I deprecate the use proposed to be made of the power in question as most untimely and harmful to the interests of both races in the Southern States. If you would promote harmony between them you defeat your object if under the thin guise of a general enactment you put Federal power behind one race and thus stimulate it to antagonize the other. If you would not arrest all tendency toward co-operation, aggravate race differences, and prevent any approach of the blacks and whites toward each other in a spirit of mutual concession, then do nothing here which a credulous and irresponsible black population will accept as a license for lawlessness and aggression.

If we look back to the date of the negro's freedom and glance at the course of Southern affairs as affecting him through the era of reconstruction and down to the present period, we will find much that may be profitably considered in this connection. When he was suddenly elevated to political equality with his former master, the abrupt sundering of the relation of a century produced a revulsion for which neither was prepared. Both were bewildered by the circumstances of their new condition. Estrangement followed soon and the adventurer who came down from the North in quest of plunder and political power saw his opportunity in the ignorant negro's credulity and used it artfully and effectively.

Under his manipulation every prejudice of the negro's nature was excited against those who had once held his race in bondage. He told the negro the Southern white man's purpose was to re-enslave him, and that to throw his ballot against his former master was his only means of protection. The negro was made to believe this, and under the influence of his fears, his resentment, and his prejudices, he soon had but one rule in elections, and that was, when the whites voted one way always to vote the other. With him in the beginning it was a struggle to preserve his freedom, which he believed was in danger, and he used his ballot as a shield of defense, and then it became a struggle for the mastery, and he used it as a "sword of attack," because his false friends told him without this his freedom would be lost.

With the white man it was a struggle against degradation, the destruction of all security, and the dissolution of society. The negro's threatening attitude excited the white man's apprehension, aroused his spirit of resistance, and firmly fixed his resolution to hold his ground. Distrust and suspicion on the one hand and determination and defiance on the other forbade all conciliation, all counseling together to reach some better understanding. The result was that the blacks were herded at the polls by their leaders and voted solidly against the whites, until the latter, seeing the dangers closing in about them, rose up as one man and recovered the control of their local governments.

This occurred in Mississippi in 1875, and until then no improvement in the political relations of these races was possible in that State. That achievement was a marvelous revelation to the negroes, and it wrought a marvelous revolution in their opinions and their conduct. Freed from the influences of their vicious leaders, whom they had seen swept from the State by a storm of popular condemnation, stunned by their unlooked-for overthrow in the election, impressed by the power of organization in the whites, they realized for the first time that the white race is invincible when thoroughly united and aroused.

Since then they have watched the course of the white Democracy in their administration of the State government and have seen no sign of danger to their freedom. On the contrary, they have seen their rights and liberties respected and have felt the benefits of liberal legislation and the equal protection of the laws in the courts. Gradually a large majority of them, seemingly, have drifted into comparative indifference to politics and parties, and lost much of their interest in elections, partly because they felt secure and partly because they had no hope of wresting the reins of power from the hands of a united and resolute white population.

The Presidential election of 1884 slightly revived their interest in politics because bad men sought to impress them that their freedom would be imperiled under a Democratic President; but four years of prosperity and comparative tranquillity under Mr. Cleveland, with no suggestion of re-enslavement or disfranchisement from any Democratic source, strengthened them in their sense of safety, and went far to commend Democratic rule to them, which they know means white rule in Mississippi. This feeling of confidence and security had been growing so long and had grown so strong before Mr. Harrison's election that that event, while it has impaired it, has not destroyed it; for the negroes know that in a single Congressional district in Mississippi there are perhaps more of their race in office whom the white people voted for than Mr. Harrison has appointed since his term began.

But when the negroes are reminded of their voting strength by a Federal law and encouraged to believe that they can rule; when they are invited by Federal power to array themselves against the whites, and vicious men among them incite them to avail of that power, there will be a serious disturbance of the present condition, and the troubles of both races will be greatly augmented. But it does not follow that the question of political ascendency will be correspondingly affected.

There will be some revival of antagonisms, some interruption of those relations which seem now to promise something of good for both races. Prosperity may be hindered and business enterprise crippled; there may be friction and disquiet and even bloody strife; but, giving you my individual belief, the result of no Congressional election in any Southern State will be controlled by any Federal election law which Congress can enact. The white people will be driven into closer co-operation than ever before for their own protection; for they know, as we know, that if Congressional elections can be controlled by Federal interference the effect will not be limited to those elections, but will extend to State elections also, as there can be no complete divorcement of State and Federal politics in any State. They know if a law of the United States can be made the means of subjecting their choice of Representatives in Congress to the absolute dictation of the negroes, it must follow soon, in a State situated as Mississippi is, that the same influences, organization, and leadership which choose their Congressmen will name their governors and sheriffs, shape their legislation, and put their judges on the bench. This means negro domination, and that means death to every interest and hope and aspiration of those people.

Mr. HOAR. Mr. President, I do not think I ought to let the day pass without calling attention to some language uttered in his place in the Senate by the Senator from South Carolina [Mr. BUTLER]. In order that it may be before the Senate in its proper place, I have obtained from the Reporter the transcript of what was said, which I will ask to have the Secretary read.

The VICE PRESIDENT. It will be read by the Secretary.

The Chief Clerk read as follows:

Mr. DOLPH. I am informed by a Senator on this side of the Chamber that before some investigation in which the Senator from South Carolina made a statement he said himself that he had stated to certain colored citizens of the United States who were in his employ, or at least whose employment was under his control, that if they voted the Republican ticket he would discharge them.

Mr. BUTLER. Whoever made that statement, Mr. President, is guilty of a deliberate and willful falsehood—a deliberate and willful falsehood.

Mr. HOAR. Mr. President——

Mr. BUTLER. And I charge the author of it, whether he be a Senator or a citizen, with the fact that he stated a deliberate, willful falsehood, if he ever said that I attempted in the remotest degree to influence any colored man under my employment.

Mr. HOAR. Mr. President, I supposed that I had read within twenty-four hours the testimony of the Senator from South Carolina before a committee of this body or of the other House, in which he stated that he had told the colored people on his plantation that he should dismiss them from his employ if they voted for one of the Republican party who was then a candidate. Now, if there is any mistake about that I am very sorry, but I made the statement to the Senator from Oregon myself.

Mr. BUTLER. Then my remark applies to the Senator from Massachusetts, of course. If he makes it he makes it from his own authority.

Mr. HOAR. I am not to be deterred from saying what I have to say——

Mr. BUTLER. I do not propose to deter the Senator.

Mr. HOAR. By that manner or behavior. I have read that in a public document within twenty-four hours, as I supposed. If there is any mistake about it I am mistaken.

Mr. HOAR. Mr. President, the rule of my life, which has been long since formed, does not permit me to reply to the Senator from South Carolina by an exchange or bandying of language like that which he thought proper to utter. I am willing to let the question whether I would be guilty of a deliberate and willful falsehood about a matter contained in a public document be settled in the estimation of those who know me. I do not think it is likely to be affected much by the angry utterances in debate of anybody, or the utterances which are not angry of anybody, and I do not think anything will be gained by undertaking to return such reviling. "A modest, sensible, and well-bred man will not insult me; and no other can."

I will read for the information of the Senate the document to which I referred. It is in the Reports of Committees for 1876 and 1877 (found in the Senate library) of the second session of the Forty-fourth Congress, and is Report 175, part 2, being a report of Mr. Lawrence, a member of the committee of the House of Representatives charged with the duty of investigating the recent election in South Carolina, and is signed by Mr. Lawrence, General BANKS, of Massachusetts, and Mr. Elbridge G. Lapham, afterwards a member of this body, and this is the report of the testimony of the Senator from South Carolina:

General M. C. Butler, whose relations to the "Hamburgh massacre" have been the subject of much discussion and who received the votes of the Democrats in the General Assembly for Senator in December last, testified before the committee as follows.

What I have read is the language of the gentleman making the report. What I am about to read is the *verbatim* extract of the testimony:

Q. Did you say to the other colored men that they could not remain on your land unless they voted the Democratic ticket?

A. I don't know that I said that. I said this: I went down and gave them tickets, and said to them that they had a right to vote the Republican ticket if they pleased; that they were free men, as free as I was, but if they exercised that right and imposed taxes on me which were destroying my property and prospects, I should throw myself back on some of the rights I had under the laws of the country, and see that they left my plantation.

Q. How many men had you living on your lands?

A. I had a good many; twenty or thirty.

Q. They all voted the Democratic ticket?

A. Oh, no, sir; six or seven of them voted the Democratic ticket; some of them did not vote at all, and I do not know how the others voted, but I intend to inform myself.

Q. With a view to turning them off if they voted the Republican ticket?

A. Not for voting the Republican ticket if they had an honest ticket, but for voting for these thieves and robbers here. I have done so and I intend to do it hereafter.

Now, Mr. President, if that language does not contain a statement found in a public document made by the honorable Senator from South Carolina that he threatened to discharge men in his employ for voting the Republican ticket, I have done that Senator an injustice. I think it does.

Mr. BUTLER. Mr. President, when the Senator from Oregon [Mr. DOLPH] said this morning that he had been informed by a Senator that I had threatened to discharge Republicans on my plantation for exercising their right to vote the Republican ticket, I denounced that statement as false and I stand by it. I have no retraction to make at all.

If the Senator from Massachusetts [Mr. HOAR] had stated that he gave the Senator from Oregon that information not of his own knowledge, but from a public document, of course my remark did not apply to him; and I repeat again that if he or any other Senator states of his own knowledge that I threatened to discharge a colored man for having exercised his right of voting, I brand that statement as false and untrue. So I have no explanation to make whatever of what I stated.

Now, sir, in regard to this report, it is clearly a garbled statement of what I said, made by the Republican members of a committee sent to South Carolina for the purpose of procuring evidence for party purposes in 1876. I did not remember at the moment of having appeared before that committee, but I repeat now that I have never at any time on any occasion attempted to influence a single negro on my plantation in exercising his right of franchise.

This testimony was taken amid an immense mass of other matter. It was never submitted to me for revision. I have not seen it from that day to this, and I desire to state in my place as a Senator that the representation or the direction attempted to be given to it is false and untrue. I have studiously avoided any reference whatever to politics to any of the colored people on my plantation. They have exercised their right to vote or not as they chose.

At the last election, in November, I sent for the colored man who is in charge of my plantation, who has been there since he was six or seven years of age, and I said I felt it my duty to give him a piece of advice, and that advice was to remain away from the polls, and I begged him to communicate that advice to the other men, the leading men on the plantation. I said, "You have a right to vote as you please and you may exercise that right as you please; but my advice to you is not to go to the polls." His reply to me was that I had always given him good advice upon such subjects as I had attempted to advise him on, and that he would take it. I took my buggy and went to the voting precinct where I was registered, at Edgefield Courthouse, and left them to do just exactly as they pleased. I have no knowledge now as to how they voted. I have never had any knowledge of how any colored man on my plantation voted.

So, I say, if the construction which the Senator puts upon that testimony is the correct one or the one that he desires to put upon it, it is a perversion of what I really said and it is not true.

That enables me, Mr. President, to refer to another occasion when I, with some other gentlemen of South Carolina, appeared before a committee sent down by Congress. I do not remember now who was chairman of the committee, but I remember a Mr. Job Stephenson, of Ohio, was a member. He addressed a communication to myself, General Chestnut, Governor Hampton, I think, Governor Manning, Governor Magrath, and other gentlemen of the State. We appeared before the committee and made a statement, and after getting through indulged in conversation, general conversation, badinage, etc., not supposing for an instant that that would be taken down as testimony; and yet the gentlemen on that committee had a stenographer present who took down everything that was said, and reported it to Congress as evidence of what we had stated, and I find in Pike's Prostrate State an extract from what purported to be my testimony, in which I am reported to have said that I could buy the Legislature of South Carolina as I could buy a mule.

Why, Mr. President, there was not a word of that said. I did not read and did not see the stenographic reports of this purported testimony, and I did not see the stenographic reports of what purported to be the testimony taken there. General Chestnut and other gentlemen complained that matters stated in private conversation had been put down as testimony for Congress.

I have no desire to have any issue with the Senator from Massachusetts. I think he knows me quite well enough to understand that if I have any charge to make against him I shall do so with great deliberation. I always respect gentlemen who are my seniors in age, but I submit to him and I submit to the Senate if it is just exactly the fair thing, not to say honorable, to suggest to a Senator on the floor an imputation upon a brother Senator on this side with the view of making a point against him. I did not know who the Senator was who informed the Senator from Oregon and was indifferent as to who it was. I repelled with indignation, as I repel now, as false and untrue—deliberately false and deliberately untrue—a statement made by any man, Senator or otherwise, that I have ever in my life attempted to influence, by intimidation or otherwise, a single colored voter in South Carolina except by the ordinary rules adopted in argument before audiences of the people.

I wish to repeat that I have studiously refrained from any interference with them. So I have nothing to retract in what I stated in reply to the Senator from Oregon. If the Senator from Massachusetts did not make the statement upon his own knowledge, of course what I said does not apply to him.

Mr. HOAR. Mr. President, I think the Senate, if they listen only to the Senator from South Carolina, would not get the exact point of this question. What the Senator from Oregon said was this; I read from the notes of the Official Reporter:

Mr. DOLPH. I am informed by a Senator on this side of the Chamber that before some investigation in which the Senator from South Carolina made a statement, he said himself that he had stated to certain colored citizens of the United States who were in his employ, or at least whose employment was under his control, that if they voted the Republican ticket he would discharge them.

It was to that that the Senator from South Carolina applied the language which I quoted:

Mr. BUTLER. Whoever made that statement—

That is, that the Senator from South Carolina had stated this in an investigation—

is guilty of a deliberate and willful falsehood.

Of course the Senator from South Carolina must have understood that nobody had made that statement on his own authority——

Mr. BUTLER. Mr. President, I can only say——

Mr. HOAR. Let me finish the sentence and I will yield.

Mr. BUTLER. I can only say to the Senator that he is mistaken in that. I supposed the statement had been made upon his own authority. The Senator can put just such construction as he pleases upon it.

Mr. HOAR. I will not apply to the Senator as he applied to others; I will accept his statement upon that point. But the statement was that this was what appeared in an investigation, and nobody who had stopped to reflect a second could have understood that the informant of the Senator from Oregon was speaking on his own authority. It was merely calling his attention to what occurred in a Congressional report or in an investigation.

Now, in regard to whether that investigation warranted the belief that the Senator had said so, it is a report made by three gentlemen, a minority of the committee it is true, but it is a report of the stenographic testimony, and it is the stenographic testimony of the majority of the committee, not the minority. The majority are responsible for the stenographic report, and this, which is extracted by General BANKS, and Mr. Lawrence, and Mr. Lapham, is taken from the testimony laid before the House of Representatives by a Democratic committee of which they were the Republican minority.

Therefore without impugning in the least the statement of the Senator from South Carolina, of what he did or did not say, any man who read that report would have the right to believe that the Senator from South Carolina had said it, and that it was correctly reported by the

stenographer; and to call attention to it was not to impute to him anything which was dishonorable or which he would deem dishonorable, but only to suppose that he thought the exigency of that case made that proper; and that is what is said by the Senator himself if he is correctly reported. He says it was not because they were Republicans if they had an honest ticket, but if they are to vote for "these thieves and robbers" here. It was only if they were to vote for these who were then the Republican candidates. "I have done it before, and I will do it again."

Then the Senator from South Carolina says in another portion of that report, reported *verbatim et literatim* by a committee of his own party, that he knows that some of his colored men voted the Democratic ticket, some did not vote at all, and "how the others voted I do not know, but I intend to inform myself."

Now, what does that mean, and what would anybody reading it have a right to believe it meant, except that he was going to inform himself for the purpose of turning them off his plantation? Let me read the very first sentence of this utterance. Understand me, the Senator from South Carolina makes his disclaimer; I am not reasoning here to ask the Senate or the country to disbelieve the disclaimer of the Senator from South Carolina; I am only showing that anybody who read that had a fair and honest right to think it was his opinion.

Mr. BUTLER. Now, Mr. President——

Mr. HOAR. Let me read this sentence, and then I will yield. Now, what was the first sentence?

> Did you say to the other colored men that they could not remain on your land unless they voted the Democratic ticket?
>
> Answer. I do not know that I said that; I said this: I went down and gave them tickets and said to them that they had a right to vote the Republican ticket if they pleased; that they were freemen, as free as I was, but if they exercised that right and imposed taxes on me which were destroying my property and prospects, I should throw myself back on some of the rights I had under the laws of the country and see that they left my plantation.

Then the Senator in the next sentence said:

> I do not know how the others voted, but I intend to inform myself.

Anybody who is familiar with the incisive style of the Senator from South Carolina would think, if he did not disclaim it, that it bristled all over with the earmarks of his mode of speech, and I had no doubt, when I read that report, that it was something which the Senator from South Carolina would listen to if it was quoted, not as an imputation, or as an affront, or as a discourtesy, or as a hostile or unfriendly criticism; but he would listen to it as the avowal of an opinion which he then entertained, which he was not ashamed to repeat anywhere, which he entertains now, and which he expects to stand by. I had not a particle of purpose in making that suggestion to my honorable friend from Oregon any more than if I had imputed to him an opinion that this election bill, which we are discussing, is unconstitutional.

Mr. BUTLER. May I inquire of the Senator, then, what was his object——

Mr. HOAR. My object was this——

Mr. BUTLER. One moment——

Mr. HOAR. I will answer.

Mr. BUTLER. What was the Senator's object in making a private communication to a Senator on the floor who was desiring to make a point against me, by informing him of what I am reported to have said, without any opportunity for me either to deny or admit the truth of the allegation upon which he bases the statement? He privately informed the Senator from Oregon that I had intimidated the voters on my place as an evidence of the condition of things in the South. Now, what motive could the Senator have had?

Mr. HOAR. The object was exactly this, and nothing else, and nothing more: The Senator from South Carolina was having a colloquy with the Senator from Oregon in which the Senator from Oregon was insisting that improper pressure, such as he and I regard as improper, was put upon the negroes, and that they did not have the ordinary rights of voting. The Senator from South Carolina rose and denied the imputation, and the last thing that he said was that if the Senator "will take an impartial and nonpartisan view of this question there are no people on this continent or on this earth who are half so anxious to settle what difficulties arise between the races as the people of the South."

That was in contradiction; and as I should say to anybody, as I should say to an associate counsel in a case or as the Senators on the other side of the Chamber constantly say to others who are maintaining the debate on their side at a particular time, I suggested to the Senator from Oregon "Why, the Senator from South Carolina himself testified so and so." That is all. It was not to put any imputation on the Senator from South Carolina at all. It never entered my head, and I can not understand now how the Senator from South Carolina could have taken the reading of the report which has been in the reports of Congress for fourteen years, made by a committee of his own party, verbatim testimony, as anything that had personal application.

Mr. BUTLER. Why, Mr. President, the report was not read.

Mr. HOAR. The report was read as soon as I could get it.

Mr. BUTLER. The report was not read, and I think the Senator is putting himself into a great state of excitement about a very small matter. I simply stated what I repeat, that if any Senator upon this floor said that I had intimidated any colored voters on my plantation or elsewhere he stated what was untrue.

Mr. HOAR. Oh, no; that was not it.

Mr. BUTLER. I qualified that subsequently by saying "of course if the Senator made the statement upon information or belief from any source." The remark would not have applied to him unless the Senator intends and insists that it shall apply to him. That is what I said and I qualified it.

Mr. HOAR. Not at all. The statement which the Senator from Oregon made was that he was informed by a Senator that that testimony appeared in a Congressional report. That is what he said.

Mr. BUTLER. I confess that I do not remember to have caught that statement.

Mr. HOAR. Now the Senator from South Carolina says this is a very small matter.

Mr. BUTLER. After my explanation I think it is.

Mr. HOAR. I do not think it is.

Mr. BUTLER. If the Senator insists——

Mr. HOAR. I have the floor, I believe, and I wish to conclude what I have to say.

Mr. BUTLER. I had not surrendered the floor, Mr. President.

Mr. HOAR. I had not surrendered the floor.

Mr. BUTLER. The Senator took his seat.

Mr. HOAR. No, I merely took my seat for an interruption of the Senator.

The VICE PRESIDENT. The Senator from Massachusetts has the floor.

Mr. HOAR. The Senator from South Carolina says this is a very small matter. It is a very small matter to me personally. It is not a matter which would give me the least concern personally. But I do not think it is a small matter when this grave constitutional question is under discussion that Republicans on this side of the Chamber are to express their opinion on any question that comes up with constant liability to this style of utterance which comes so often across this aisle, and that every constitutional dispute we have where we are really expressing our own views and those of our constituents as we understand them is to be conducted with a constant liability to have the question turned into a personal one and to encounter some disagreeable personality.

Mr. President, if I am to understand the Senator from South Carolina that he did not mean to apply that language to me personally, after what I said——

Mr. BUTLER. Of course not, Mr. President, of course not. I so stated in the beginning of what I said.

Mr. HOAR. I do not find it there, then.

Mr. BUTLER. If I had understood the Senator to have based his information upon a report my remarks could not have applied to him.

Mr. HOAR. Now let me proceed.

Mr. BUTLER. One word, Mr. President, if the Senator will allow me to proceed——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. HOAR. In one moment. I wish to say one other thing before the Senator proceeds, and he can proceed with more understanding after I have said it.

I wish to say in all candor that there are few Senators, there are few men in the world, whose political opinions are so repugnant to my own, for whom I have had a more profound respect, which has grown up, taking the place of a very strong prejudice when the Senator came into this body, than I have had for the Senator from South Carolina.

The Senator from Mississippi [Mr. WALTHALL] did me the honor to read just now to the Senate from some remarks of mine made in the Senate a year or two ago, a description of what I thought were the qualities of the Southern people, who are my countrymen; and if any man dwelling south of Mason and Dixon's line has made a higher eulogy upon the character of that people, although many have made one undoubtedly better said, I fail to have met it; and I am very happy to say that in drawing that picture I should have considered it as a picture applicable to the honorable Senator from South Carolina. I do not think when I spoke of the great qualities in war and in peace, the great love of home, the great patriotism, the great constancy, the great courage, the commanding intelligence of that people, although I should be quite ready to apply that to the Senator from South Carolina, that I could be able in justice or in candor to add that I thought they were particularly careful to be civil to their political opponents or to refrain from turning constitutional discussions into personal acrimony.

Mr. BUTLER. Mr. President, this little incident has not been without its value. I am quite sure the Senator from Massachusetts shall not go beyond anything that I can say to reciprocate the kindly utterances which have just escaped him. I can assure that Senator that his expressions of approbation and of kindness and consideration to me personally and to those whom I represent are very highly appreciated by myself.

If anything additional to what I have just stated by way of disclaimer were necessary to prove that I could not have meant the Senator from Massachusetts when I stated that a statement of that kind

was false, I did not know who the Senator was. So it could certainly not have proceeded from any feeling of unkindness to him. I made the broad, unqualified statement. If I had known that it was made, as I said a while ago, upon the report of testimony, of course the remark would not have applied personally to anybody.

Mr. President, in regard to the admonition which the Senator has just given us on this side in respect to turning into personalities discussions upon constitutional questions, of course it is not my purpose to upbraid the Senator from Massachusetts; but I think he will admit that when he loses his temper occasionally, as we all do, he is as much inclined to be personal as any Senator upon this floor. I do not think he means to be offensive, for I think the kindness of his heart is such that he is incapable of any feeling of resentment against those of us who differ with him politically. I concur with him that it is unseemly in this body to indulge in personal epithets, and I think I can say that in my service here of about fourteen years I have indulged in that as little as any Senator upon this floor. At times in the heat of debate we say things that we regret very soon afterwards.

But I merely rose for the purpose of reciprocating as far as I can the sentiments just expressed by the Senator from Massachusetts.

BALTIMORE AND POTOMAC RAILROAD.

Mr. McMILLAN. I ask unanimous consent to call up the bill (H. R. 8243) supplementary to an act entitled "An act to authorize the construction of the Baltimore and Potomac Railroad in the District of Columbia."

I will state that this bill has once passed the Senate, and, a similar bill having been passed by the House of Representatives, this action is asked for the purpose of bringing it into conference.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and insert a substitute.

The VICE PRESIDENT. The amendment of the committee will be read.

Mr. INGALLS. I think perhaps the necessity for reading the substitute may be obviated by a simple statement that the House of Representatives the other day sent over a bill relating to the Baltimore and Potomac Railroad Company, which was referred to the Committee on the District of Columbia. At the last session of the Senate a bill upon that subject was reported from the Committee on the District of Columbia, passed the Senate, and was sent to the House of Representatives, where it now lies upon the table. The committee this morning at its session agreed to report the bill that came from the House of Representatives with an amendment, which is in terms the same bill that was reported from the committee and which passed the Senate at the last session. What is now asked is that the amendment may be agreed to and the bill go over to the House of Representatives with the amendment, so that it may go into conference between the two Houses for consideration.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Committee on the District of Columbia.

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

Mr. INGALLS. I move that the Senate insist on its amendment and ask for a conference with the House of Representatives upon 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. McMILLAN, Mr. FARWELL, and Mr. HARRIS were appointed.

JAMES B. GUTHRIE.

Mr. HARRIS. I ask unanimous consent that the Senate at this time proceed to the consideration of the bill (H. R. 11842) for the relief of James B. Guthrie. It is the bill I referred to this morning, but the report had not been returned by the printer. It is now on the desk.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to place on the pension roll the name of James B. Guthrie, of Paris, Tenn., late a private of Capt. James T. Dunlap's company of Tennessee troops in the Indian war of 1836, at $20 per month.

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

MINERAL LANDS AND MINING RESOURCES.

Mr. STEWART. I ask unanimous consent to proceed to the consideration of Order of Business 1287, Senate bill 165. It is a bill to correct some little defects in the mining laws. We have been a long time in getting them perfected, so as to meet all views, but the bill has been pending two or three years in different forms, and as reported now we believe we have a unanimous agreement among all the people interested in it. It corrects some technical defects.

There being no objection, the Senate as in Committee of the Whole, proceeded to consider the bill (S. 165) to amend chapter 6 of Title XXXII of the Revised Statutes, relating to mineral lands and mining resources, which was reported from the Committee on Mines and Mining with amendments.

The Chief Clerk proceeded to read the bill.

Mr. STEWART. I ask that the amendments of the committee may be considered as they are reached in the reading.

The VICE PRESIDENT. The Chair hears no objection, and that course will be pursued.

The first amendment of the Committee on Mines and Mining was, in section 1, line 5, after "shall," to strike out "acquire by location more than 1,500 feet in length on the same vein, nor shall any person," and after the word "located," in line 7, to insert "except for the purpose of correcting or amending his former location;" so as to make the section read:

That section 2319 of the Revised Statutes be amended by adding thereto the following: "But no person shall relocate a claim which he has previously located, except for the purpose of correcting or amending his former location."

The amendment was agreed to.

The next amendment was, in section 2, line 14, before the word "claim," to insert the word "lode;" in line 19, before the word "claims," to insert the word "lode;" in line 26, before the word "dollars," to strike out "twenty-five" and insert "ten;" in line 29, before the word "claims," to insert "lode;" in line 30, after the word "five," to strike out "whether the same be lode or placer claims;" in line 32, before the word "dollars," to strike out "one thousand" and insert "five hundred;" in line 52, after the word "and," to strike out "ninety" and insert "ninety-one;" in line 55, after the word "and," to strike out "eighty-nine" and insert "ninety;" in line 56, after the word "and," to strike out "ninety" and insert "ninety-one;" in line 64, before the word "be," to strike out "shall" and insert "may;" in line 66, after "improvements," to strike out "with the recorder of the mining district in which such claims are situated, and if there be none then;" in line 72, before the word "conditions," to strike out "these," and insert "the," and in the same line, after the word "conditions," to insert "of this act in the performance of labor or making of improvements;" in line 78, after the word "such," to strike out "location" and insert "relocation;" in line 93, after the word "expenditure," to strike out "upon recording a" and insert the capital "A;" in line 95, after the word "notice," to strike out "with the recorder of the mining district in which such mining claim is situated, and if there be no such officer, then" and insert "when filed and recorded," and after the word "situated," in line 98, to insert "shall be evidence of the acquisition of title of such co-owners," so as to read:

That section 2324 of the Revised Statutes be amended so as to read:

"SEC. 2324. The miners of each mining district may make regulations, not in conflict with the laws of the United States or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground by posts or monuments, so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located as will identify the claim. On each lode claim located after the 10th day of May, 1872, and until payment of the purchase money and a certificate of entry has been issued therefor not less than $100 worth of labor shall be performed or improvements made during each year. On all lode claims located prior to the 10th day of May, 1872, $10 worth of labor shall be performed or improvements made during each year for each 100 feet in length along the vein until payment of the purchase money and a certificate of entry has been issued therefor; and for each 20 acres of placer claims, and for each subdivision thereof less than 20 acres, $10 worth of labor shall be performed or improvements made during each year until payment of the purchase money and a certificate of entry shall be issued therefor. But where several adjoining lode claims, not exceeding five, are owned or held by the same person, association, or corporation, and the sum of $500 or more is expended in any one year in good faith for the development of all of the claims so owned or held, not exceeding five, there shall be no requirement for separate labor or improvements to be performed or made on the several claims so owned or held during such year. The year within which the annual labor or improvements required to be performed or made by this section shall commence at 12 o'clock meridian on the 1st day of October of each year: *Provided*, That upon claims located previous to the 1st day of March in any year the annual labor or improvements shall be performed or made on such claim for that year prior to 12 o'clock meridian on the 1st day of October next succeeding; and upon claims located after the last day of February and prior to 12 o'clock meridian of the 1st day of October in any year the annual labor or improvements required shall be performed or made within one year from 12 o'clock meridian of the 1st day of the succeeding October: *And provided further*, That only one-half of the annual labor or improvements required by this act shall be necessary to be performed or made prior to 12 o'clock meridian of the 1st day of October, in the year 1891, on claims upon which the annual labor or improvements were performed or made in the year 1890; but after the 1st day of October, in the year 1891, the full amount of labor or improvements required by this act shall be performed or made upon such claims as in all other cases during each year prior to 12 o'clock meridian of the 1st day of October. In case the 1st day of October falls on Sunday or any holiday the following secular day shall be construed as the 1st day of October within the meaning of this act. When the labor required by this act shall have been performed or the improvements made an affidavit may be filed within thirty days after the time limited for performing such labor or making such improvements with the recorder of deeds of the county in which the claim or mine is situated, particularly describing the labor performed and improvements made, and the value thereof, which affidavit shall be *prima facie* evidence of the facts therein stated. And upon a failure to comply with the conditions of this act in the performance of labor or making of improvements,

the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made: *Provided*, That the original locators, their heirs, assigns, or legal representatives, do not resume work upon the claim after such failure and before such relocation, and continue the same with reasonable diligence until the required amount of labor shall have been performed or improvements made. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days; and if at the expiration of ninety days after such notice in writing or by publication such delinquent shall fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures. A copy of such notice, together with an affidavit showing personal service or publication, as the case may be, of such notice, when filed and recorded with the recorder of deeds of the county in which such mining claim is situated, shall be evidence of the acquisition of title of such co-owners.

The amendment was agreed to.

The next amendment was, in section 2, line 100, after the word "owners," to strike out:

When any person or company has developed and exposed a lode, and expended $100 worth of labor thereon, said person or company may run a tunnel for the purpose of developing such lode owned by said person or company, and the money so expended in said tunnel shall be considered as expended on said lode, and such person or company shall not thereafter be required to perform labor or make improvements on the surface of said lode in order to hold the same, so long as work is continued on such tunnel.

And in lieu thereof to insert:

Where a person or company has or may run a tunnel for the purpose and with the intent in good faith of developing a lode or lodes owned by said person or company, the money so expended in running said tunnel shall be taken and considered as expended on said lode or lodes: *Provided further*, That said lode claim or claims shall be distinctly marked on the surface as provided in this act.

The amendment was agreed to.

Mr. COCKRELL. Before we pass from the second section I desire to call the attention of the Senator reporting this bill to the provision from line 81 down to line 95. This seems to be a very remarkable provision:

Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent shall fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

This is a most wondrous power to give to a co-owner of land. He can absolutely confiscate it.

Mr. STEWART. The Senator will allow me to say that that has been the law since 1872, and the only changes in the law are in regard to procuring a record of it so that the public may know about it. There is no other change in the law. He could advertise out his co-owner—that is perfectly understood—so that one man may not prevent the development of a mining claim. That has been the law since 1872.

Mr. COCKRELL. Do I understand it to be the present law that one co-owner can go and perform work and stick a notice in some little newspaper, and after the lapse of a year condemn and become the absolute owner of the interest of all the others who have had only that kind of a notice? Is that the existing law?

Mr. STEWART. That is the existing law. This is made a little more specific as to the recording of the notice; that is all. Without that law one party might stay away and no one could go ahead with the work, and those who are willing to work and develop the mines would be retarded, and it would stop development. There has been no abuse under the law. I have never heard of any complaint under it. It is universally approved.

Mr. COCKRELL. I should like to see the original law.

Mr. STEWART. The amendment is rather in favor of the man who goes away.

Mr. SANDERS. It is page 426 of the Revised Statutes of the United States, section 2324, and is as follows:

On all claims located prior to the 10th day of May, 1872, $10 worth of labor shall be performed or improvements made by the 10th day of June, 1874, and each year thereafter, for each 100 feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

Mr. COCKRELL. What further?

Mr. SANDERS. There is nothing further except this note in parenthesis:

"That section 2324 of the Revised Statutes be, and the same is hereby, amended," etc.

That is the act of 1875.

Mr. STEWART. That is extending the time. That has nothing to do with this. We added a provision requiring him to file a copy of his affidavit.

Mr. SANDERS. That has been the law for eighteen years.

Mr. JONES, of Arkansas. This bill evidently is going to involve considerable discussion and the Democratic members of the committee reporting the bill are not in the Senate. I do not think under the circumstances the bill ought to be passed at this time.

Mr. HOAR. Mr. President——

Mr. STEWART. Let me say one word. I hope that the Senator from Arkansas will allow the bill to pass. It has been considered by all the persons interested in mining in that country. It has been published several times. It has been published in the newspapers and sent out. The Democratic members of the committee are not specialists on the subject. They have hardly taken any interest in it, and they said we could fix this mere matter of practice as we liked. The Senator from South Dakota [Mr. MOODY], the Senator from Colorado [Mr. TELLER], and myself had the work to do, and we have spent several sessions on it. It is important that it should be now passed. I am certain that there is no member of the committee who has any objection to it, and it seems to be in a condition when it might be passed.

Mr. JONES, of Arkansas. I have no objection to the bill; I have no fight to make on it and know nothing about it; but it seems to be a bill of considerable importance, and, as I said just now, the Democratic members of the committee are not here, and I am not willing to agree that a bill which seems to be important shall be passed under these circumstances. I am perfectly willing that it shall come up to-morrow morning when they are present, and then that it shall pass, but I do not think it ought to be urged now, and I object to its consideration.

Mr. STEWART. I will ask to finish the bill in the morning hour to-morrow. I have not a word to say about it. I think we might finish it in the morning when the other members of the committee are present.

Mr. JONES, of Arkansas. I have no objection to that.

The VICE PRESIDENT. The bill will be passed over.

UNITED STATES ELECTIONS.

Mr. HOAR. I call for the regular order.

The VICE PRESIDENT. The Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 11045) to amend and supplement the election laws of the United States, and to provide for the more efficient enforcement of such laws, and for other purposes.

Mr. HOAR. I understand that the Senator from Arkansas [Mr. JONES] is to speak on the bill. After he takes the floor, if he does not desire to go on at this time, I will move an adjournment.

Mr. JONES, of Arkansas. I should prefer to go on to-morrow.

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

The VICE PRESIDENT. The Senator from Arkansas [Mr. JONES] being recognized as entitled to the floor on the pending bill, the Senator from Massachusetts [Mr. HOAR] moves that the Senate do now adjourn.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Saturday, December 13, 1890, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 12, 1890.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

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

Mr. FITHIAN and Mr. CLUNIE appeared and took their seats.

MEMORIAL ADDRESSES ON HON. LEWIS F. WATSON.

Mr. O'NEILL, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That Saturday, January 31, 1891, at 3 o'clock afternoon, be set aside for paying tributes to the memory of Hon. Lewis F. Watson, late a member of the House of Representatives from the State of Pennsylvania.

EVENING SESSION DISPENSED WITH.

Mr. MORRILL. I am directed by the Committee on Invalid Pensions to ask consent that the session for this evening be dispensed with.

Mr. BUCHANAN, of New Jersey. I hope the gentleman will give some reason for this proposition.

Mr. MORRILL. There are only about thirty pension bills on the Calendar, the committee not having reported any recently, and we prefer to have more bills on the Calendar before we commence work at an evening session.

Mr. BUCHANAN, of New Jersey. I have been here many an evening when less than thirty bills occupied the whole time.

Mr. MORRILL. That may be true; but it is always best to have a considerable number of bills on the Calendar, and now there are only a few. The committee was unanimous this morning in deciding that it would be better not to have a session this evening.

The SPEAKER. The gentleman from Kansas, by unanimous instruction of the Committee on Invalid Pensions, asks consent that the session for this evening be dispensed with. Is there objection? The Chair hears none; and it is so ordered.

CHANGES OF REFERENCE.

The SPEAKER laid before the House the following bills erroneously referred, and the reference was changed as respectively indicated:

A bill (H. R. 12469) for the payment to the widow of the late Justice Samuel F. Miller one year's salary—from the Committee on Appropriations to the Committee on Claims.

A bill (H. R. 12220) to repair and build the levees on the Mississippi River, to improve its navigation, to afford ease and safety to its commerce, and to prevent destructive floods—from the Committee on Commerce to the Committee on Levees and Improvements of the Mississippi River.

PUBLIC BUILDING AT BEATRICE, NEBR.

The SPEAKER laid before the House the following:

IN THE SENATE OF THE UNITED STATES, *December* 11, 1890.

Resolved, That the Secretary be directed to return to the House of Representatives the enrolled bill (S. 2404) to provide for the purchase of a site and the erection of a public building thereon at Beatrice, in the State of Nebraska, and that he request the House of Representatives to return to the Senate its resolution agreeing to the amendments of the House to said bill.

The SPEAKER. Without objection, the request of the Senate will be complied with.

There was no objection; and it was ordered accordingly.

PUBLIC BUILDING AT FORT DODGE, IOWA.

Mr. KERR, of Iowa. I ask that the House concur in the request of the Senate for a committee of conference on the bill (S. 953) for the erection of a public building at Fort Dodge, Iowa.

The SPEAKER. Is the bill in the possession of the House?

Mr. KERR, of Iowa. Yes, sir.

The SPEAKER. The gentleman from Iowa asks unanimous consent for the present consideration of the bill for the erection of a public building——

Mr. KERR, of Iowa. No, I ask for the appointment of a committee of conference.

The SPEAKER. A committee of conference can not be had unless ordered by the House; and that can only be done by having the bill up for consideration. Is there objection?

Mr. ENLOE. Mr. Speaker——

The SPEAKER. Does the gentleman object?

Mr. ENLOE. Yes, sir.

The SPEAKER. Objection is made.

ORDER OF BUSINESS.

Mr. ENLOE. I make the motion that the House resolve itself into Committee of the Whole to consider business on the Private Calendar.

Mr. THOMAS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House for the purpose of considering business on the Private Calendar.

The SPEAKER. The chairman of the Committee on War Claims submits a motion that the House go into Committee of the Whole to consider the Private Calendar.

Mr. ENLOE. I made the same motion; but I am very much obliged to the gentleman for repeating it.

The SPEAKER. The gentleman from Tennessee had the floor on account of an objection.

Mr. ENLOE. I did not know that it was necessary to have the floor for that purpose.

The SPEAKER. And it has been customary to recognize the chairman of the Committee on Claims or of the Committee on War Claims, who has the business in charge, to make the motion.

Mr. ENLOE. Is it necessary that a gentleman should have the floor to interpose an objection?

The SPEAKER. It is decidedly necessary that he should have the floor to make a motion.

Mr. ENLOE. It is not in order, I suppose, to make it from this side. The motion comes better from the other side.

The SPEAKER. It has always been the custom of the House to recognize the chairman of one of the committees named to make the motion and has been so recognized in the House. Does not the gentleman from Tennessee so understand it?

Mr. ENLOE. That it has been the custom of the Chair to recognize gentlemen on that side in preference to this? I believe I understand that to be so.

The SPEAKER. That it has been the custom to recognize the chairman of the Committee on Claims or War Claims to make the motion.

Mr. ENLOE. I do not know that it is material who makes the motion. If I make a motion I see no necessity for recognizing a gentleman on the other side to repeat it. I have made that motion often during the session when the chairman was opposed to it.

The SPEAKER. But the gentleman from Tennessee had the floor simply for another purpose and the gentleman from Wisconsin was on the floor at the time.

Mr. ENLOE. It is not material to me; I do not care anything about the discrimination one way or the other.

The SPEAKER. It is very material that a thing should be done in accordance with the customs of the House.

Mr. ENLOE. But it is not material to me whether the Chair recognizes me or not.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Wisconsin.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. ALLEN, of Michigan, in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the consideration of bills on the Private Calendar, and the Clerk will report the title of the first bill.

Mr. THOMAS. Mr. Chairman, I have had no consultation with the committee or with any member of it, but it seems to me the best thing to do would be to take up the Senate bills on the Calendar.

The CHAIRMAN. The gentleman asks unanimous consent that Senate bills on the Calendar be first considered. Is there objection?

Mr. GEAR. I object.

The CHAIRMAN. The Clerk will report the first bill on the Calendar.

J. F. BAILEY & CO.

The first business on the Private Calendar was the bill (H. R. 3913) granting jurisdiction to the Court of Claims, notwithstanding any statutory bar, of the claims of J. F. Bailey & Co. and others.

The bill was read at length.

The CHAIRMAN. This bill is reported with amendments, which the Clerk will read.

The amendments recommended by the committee were read.

Mr. HOPKINS. Mr. Chairman, I would like to hear the report accompanying this bill read.

Mr. LAIDLAW. If the gentleman will yield for a moment I have a motion to submit with reference to that bill.

Mr. HOPKINS. Very well.

Mr. LAIDLAW. I move that the bill be laid aside with the recommendation that it be referred back to the committee.

Mr. HOLMAN. To the Committee on Claims?

Mr. LAIDLAW. Yes, sir.

Mr. MCKINLEY. That the bill be recommitted to the committee?

Mr. LAIDLAW. That is my request.

Mr. CULBERSON, of Texas. There is no objection to that.

The motion of Mr. LAIDLAW was agreed to.

CHARLES STOTESBURY, ADMINISTRATOR.

The next business on the Private Calendar was the bill (H. R. 3308) to open and set aside an order of the Court of Claims canceling a portion of a judgment against the United States, remitted through mistake as to the facts in regard to the same by claimant to the United States, and to refer the matter to the Court of Claims for such further action as said court shall find to be just and equitable.

The CHAIRMAN. The Chair will state that this bill was read in full on the 28th day of August last, when it was being considered by the Committee of the Whole.

Mr. MCMILLIN. But several things very hard to be oblivious of have occurred since that time, and we would like to have the bill read.

The bill was again read at length.

Mr. LAIDLAW. Mr. Chairman, I move that this bill be reported with a favorable recommendation.

Mr. COBB. Let us have the report read before action is taken on that motion.

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

The Committee on Claims, to whom was referred the bill (H. R. 3308) to open and set aside an order of the Court of Claims canceling a portion of a judgment against the United States, remitted through mistake as to the facts in regard to the same by claimant to the United States, and to refer the matter to the Court of Claims for such further action as said court shall find to be just and equitable, respectfully report as follows:

That a bill was introduced into the House of Representatives of the Forty-ninth and Fiftieth Congresses embracing the same subject-matter as this bill, and substantially to accomplish the same ends. That it was referred to the Committees on Claims in said former Congresses (Forty-ninth and Fiftieth) and by said committees reported favorably to the House in said Forty-ninth Congress, with certain amendments recommended in the report, a copy of which report is hereto attached. The present bill contains the amendments recommended in said report. The present committee adopt the report of the former committee as their own, and recommend that the present bill do pass, excepting as to the amendments proposed in the former report.

[House Report No. 2172, Forty-ninth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 1533) to open and set aside an order of the Court of Claims canceling a portion of a judgment against the United States, remitted, through mistake as to the facts in regard to the same, by claimant to the United States, and to refer the matter to the Court of Claims for such further action as said court shall find to be just and equitable, having considered the same, submit the following report:

The claimant, as administrator of the estate of William Stotesbury, deceased, obtained, in 1884, a judgment in the Court of Claims against the United States for the sum of $11,301, from which judgment the United States appealed to the Supreme Court; that thereafter the claimant, through his attorney, remitted $4,933 of said judgment; whereupon the balance was paid by the United States and the appeal dismissed.

The claimant has produced evidence tending to show that he was induced to remit said sum under a mistake of fact, and that by reason of such deception he was induced to take a less sum than he was entitled to under said judgment.

The committee is of opinion that he should be permitted to make his showing in the court which rendered the judgment, and, if the facts warrant it, he should receive the amount remitted.

Mr. HOPKINS. Mr. Chairman——

The CHAIRMAN. The gentleman from New York [Mr. LAIDLAW] is recognized to control the time.

Mr. HOPKINS. I would like to ask the gentleman having this bill in charge a question or two in regard to it. It seems from the report that originally a judgment of $11,301 was obtained against the Government and that the representatives of the Government were dissatisfied with that judgment and appealed to the Supreme Court of the United States. Now they must have done that with the idea that the Government was not liable at all or that it had a good defense against the claim in whole or in part; and then the legal representative of the claimant remitted $4,000, and obtained judgment upon the remainder.

Now, it seems to me that if this matter is to be reopened to the claimant, the amount of money that has been paid him should be returned to the Government, so that it will be put in as good a condition to make a defense against the entire claim as against the portion which it is claimed was remitted by mistake. I would like to ask the chairman of the committee if this matter has been considered by the committee.

Mr. LAIDLAW. It has been carefully considered, and I will state to the gentleman from Illinois and to the House that the gentleman is mistaken as to one fact. The claimant recovered a judgment for the full amount named in the report. The United States either had appealed or was about to take an appeal, and the attorney of the claimant compromised as to this item of $4,000, and the judgment was reduced by that amount.

Mr. COBB. Mr. Chairman, I rise to a point of order. We can not hear what is being said.

The CHAIRMAN. The committee will please be in order.

Mr. LAIDLAW. Mr. Chairman, I was stating the facts as I understand them with reference to this bill. The claimant, as it appears from the report, recovered a judgment in the Court of Claims for the amount named in the report. The United States Government was about to take an appeal or had taken one, and in order to compromise the matter in some way the attorney of the claimant remitted this $4,000 item, which was a separate and distinct item. Now, all the bill proposes to do is to go back to the court and satisfy the court that a mistake of fact was made when this was insisted upon by the United States.

Mr. COBB. But that deprived the United States of the right to the appeal which was about to be taken.

Mr. LAIDLAW. I do not understand that it deprived the United States of that right, and the committee are entirely willing that the bill should be amended so that the United States may appeal or take any other legal remedy. All the bill does is to leave the matter with the court in which the decision was rendered, to make such disposition of it as justice and equity require.

Mr. COBB. But you do not propose to open the whole case and to give to the United States the same right of appeal that it had when this remittitur was entered.

Mr. LAIDLAW. I say, if it is the judgment of gentlemen that that should be done, then we have no objection to an amendment giving to the United States the right of appeal or any other remedy; but it did seem to the committee, as long as this claimant alleged that this $4,000 was remitted by mistake, that *prima facie*, when the court rendered the judgment for the $4,000, that judgment was based upon something.

Mr. McMILLIN. Will the gentleman permit me to ask him a question?

Mr. LAIDLAW. Certainly.

Mr. McMILLIN. Do you propose by this bill to put the parties back into the situation in which you found them before the compromise?

Mr. LAIDLAW. Certainly.

Mr. McMILLIN. That is, to allow the Government to defeat the whole claim and have judgment rendered against these parties if it should finally turn out that what has been paid was improperly paid?

Mr. LAIDLAW. Do I understand the gentleman to mean by that that he thinks the claimant must restore the amount he received on the judgment as a condition-precedent to making this motion to the court?

Mr. McMILLIN. What I do mean is this: That it strikes me as a little extraordinary that when there is a litigation pending, after that litigation is compromised by the claimant accepting a part of the claim and remitting the balance, he having fastened his hands onto what he has got, he should then propose to violate the compromise and get judgment for the remainder. It seems to me that is a fight in which the United States can not in any event gain anything and may lose all.

Mr. LAIDLAW. I was not talking about the proposition as to who would gain or who would lose. The committee propose to send this matter back to the same court that rendered the original judgment, which judgment was *prima facie* a proper one.

Mr. McMILLIN. Now, if it is to be litigated over again——

Mr. LAIDLAW. One moment. As long as the litigant says that he remitted the $4,000 under a mistake of fact, he will have to satisfy the court of that before the court will give him any relief as to this $4,000.

Mr. McMILLIN. Why not open the claim *in toto?*

Mr. LAIDLAW. If the gentleman thinks it should be so reopened, let him offer such an amendment as he sees fit.

Mr. McMILLIN. It seems to me that the proper thing is, when a litigation is pending and judgment has been rendered and an appeal has been or is about to be taken, if the parties get together and compromise it, that they stand by that compromise. I think this proceeding is altogether gratuitous, and that it is unjust to the parties to the compromise to reopen it.

Mr. LAIDLAW. That is undoubtedly a correct proposition, that when you once make a compromise you had better stand by it.

Mr. McMILLIN. Is not this a compromise?

Mr. LAIDLAW. But that is not universally so. If a compromise were made under a mistake in fact and the attorney did that without full consultation with his client, then I say it is entirely competent for a court having jurisdiction of the parties and the subject-matter to hear all that may be said upon that subject, and it is gratuitous to say that when the parties come into court the court will fail to do justice to one of the parties.

Mr. McMILLIN. Did the attorney exceed his authority in making the compromise? Do you allege that?

Mr. LAIDLAW. I do not allege that, for this reason——

Mr. McMILLIN. If you do, the remedy would be against the attorney.

Mr. LAIDLAW. Not at all. There is no such law. If my attorney exceeds my authority and settles my case, I may take it into court on a question of giving me relief by motion without getting relief against the attorney at all.

Mr. McMILLIN. Now, what mistake has been made? Will the gentleman point out to the House wherein an injustice has been done the party?

Mr. LAIDLAW. If the gentleman had allowed me, I did not suppose this would provoke a moment's discussion.

Mr. McMILLIN. It ought to.

Mr. LAIDLAW. There is a large bundle of papers in the case which I have not seen for six months. But I will say that the committee were of the opinion that no harm would be done if we should allow the litigant to go into court and state his case, and, if there was no merit in the case, then it could be dismissed, and, if there was, he could obtain his judgment.

Mr. McMILLIN. The gentleman seems to have forgotten the old law maxim that there should be an end to litigation.

Mr. LAIDLAW. Oh, there ought to be an end to lots of things as well as litigation.

Mr. McMILLIN. There never will be one if parties who have made a compromise and failed to get all they want can go into court after the compromise has been made, for a further allowance.

Mr. COBB. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Alabama?

Mr. LAIDLAW. I do.

The CHAIRMAN. How much time does the gentleman yield?

Mr. LAIDLAW. Ten minutes.

Mr. COBB. Mr. Chairman, an appeal is made to this House in this case to extend an equity or to show favor to this claimant, and there is no offer upon the part of the claimant to do equity. The situation of the case is simply this: He recovered a judgment in court against the Government of the United States. The Government proposed to take an appeal in that case, and pending that proposition a settlement was effected by which the Government on its part released its right of appeal for the consideration that the plaintiff upon his part should relinquish a part of the judgment.

Now, that is the state of the case. The plaintiff relinquished in part his judgment rendered in the court below and the Government of the United States released its right of appeal, and the matter was settled. A large amount of money, over $11,000, was paid to the plaintiff upon this settlement or compromise. Now, after six years have passed this claimant comes and asserts that this remittance of a part of this judgment was made under a mistake of facts; but he proposes to hold on to his $11,000 and over and to ask the court to allow him to show that there was a remittance by mistake of some amount, and to litigate on that and that only. What situation is the Government placed in? Originally it yielded the valuable right of appeal.

Upon that appeal we are justified in saying there would have been a reversal of the judgment of the court below. In other words, the proposition is to allow the judgment to stand as it was originally entered, denying to the Government the right it then proposed to exercise, of having it reviewed in an appellate court, and to permit the claimant to again litigate for the recovery of the sum given by him to purchase the right of appeal. Is that just? It may be equitable; but the equity is all on the one side. Now, if this plaintiff desires to do that which

is fair, that which is right, let him ask for the passage of a bill providing that he shall return to the Treasury of the United States the $11,-301 which the Government has paid to him and restore to the Government its right of appeal. That would look like equity on both sides of the case. The Government of the United States, it is to be presumed, would not have taken an appeal unless there was ground for it; and the situation, if we pass this bill, will be simply to say that the Government shall not have this right which it then proposed to exercise and which the claimant purchased by the money which he now proposes to recover.

This is one view of the case. Another is to allow an inquiry as to the mistake of fact in making the credit here upon the original judgment without any responsibility being assumed by these parties at all. Six years have gone by, the number of years which all States have agreed upon as the proper time when there should be oblivion of all these things and a cessation of litigation. Now, I do not know what the condition of affairs may be or how the evidence made for the Government may be situated in regard to this matter and the report does not disclose to us any facts upon which this plaintiff proposes to reverse this judgment. If it is right to do it at all, this House ought to be advised of the reason for so doing.

The gentleman from New York [Mr. LAIDLAW] urges to-day that stereotyped argument which we hear over and over again whenever a matter of this kind is presented to the House, that no harm can come of this legislation, that this party only wants the privilege of going into the courts. Whenever a man asks a court or any competent authority to set aside a statute of limitation and reopen a case, he holds the burden of showing to the authority to which he appeals a valid reason for the action which he prays to be taken. Not one single fact is disclosed upon this report showing any reason whatever for such action in this case except that the claimant says that he made this mistake.

The gentleman says the court will inquire into that question, but if we are to extend this sort of favor to the claimant ought not we to know something about this question ourselves? We are the parties that are asked to put this statute of limitation aside. We are the parties that are asked to open the case again. We sit in judgment upon these facts, or ought to do so, and before we pass a bill of this kind we ought to take some such action as a court would take on appeal to it to set aside a judgment rendered therein.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COBB. Mr. Chairman, I desire to offer the amendment which I send to the desk.

The CHAIRMAN. The amendment will be read at the proper time.

Mr. LAIDLAW. Mr. Chairman, as I said before when addressing the committee on this bill——

Mr. COBB. Mr. Chairman, would it not be well to have my amendment read, so that the committee may know that it is pending?

The CHAIRMAN. In the absence of objection, the amendment will be read for information.

The Clerk read as follows:

Provided, That the entire judgment shall be considered set aside and a new hearing on the merits be awarded to both parties, with the same rights, including the right of appeal, to either party to the cause.

Mr. LAIDLAW. I have no objection to offer to that amendment.

Mr. HOPKINS. Mr. Chairman, if the motion is in order, I wish to move to recommit the bill with the amendment to the Committee on Claims.

The CHAIRMAN. The motion is not in order now. The gentleman from New York [Mr. LAIDLAW] has the floor.

Mr. LAIDLAW. The committee in investigating this claim did not think it advisable to set out in their report all the facts and allegations tending to establish the proposition that this $4,000 was released by a mistake of fact. They thought that all the House would care to know was that the claimant had a state of facts that he urged as tending to establish that proposition.

I admit at once that if we had reported a bill to appropriate the money we would have been bound to make a case such as the gentleman last up [Mr. COBB] has suggested. But seeing that it is only proposed to remit the parties to the court, and that the court will presumably hear all the parties on both sides, and that if there is no merit in the motion the plaintiff will make nothing by his motion—in view of these circumstances I do not think we are bound to make such a case here. That is the reason why the report is so meager upon that point as it is. It is urged that this transaction was six years ago. It is like many claims in this House that are old, but old because this body, in the multiplicity of its affairs, has never got to consider them.

Mr. COBB. But this is not an old claim in this House. It is a claim now brought in for the first time.

Mr. LAIDLAW. Not at all. The report says that bills for this purpose were introduced in the Forty-ninth and the Fiftieth Congresses, and our committee has only adopted the report of a previous Congress with such additions as seemed just. It appears that four years ago—yes; longer ago than that—this claimant had a bill introduced here to give him relief from this mistake and a new hearing of the matter before the Court of Claims. Therefore, that objection is certainly avoided. You can not claim laches on the part of a man who has been doing his best to secure justice through some Representative on this floor introducing a bill in one Congress, and again in the next Congress, and again in the next, in view of the fact, familiar to us all, that these private bills are pushed aside year after year on account of the pressure of public business.

In such a case laches is not to be attributed to a claimant, and no fair-minded man will urge such an argument. Now, the Court of Claims is composed of eminent lawyers who enjoy, I have no doubt, the confidence of this entire body. The proceeding proposed by this bill is the commonest kind of a common proceeding in that court. It is instituted by a motion, and unless the court is satisfied that there are good, strong, valid reasons for the proposed action they will not open this settlement, because every lawyer knows that a compromise always stands unless some inherent trouble comes in to sap the equity and justice of it, some mistake as to a question of fact, some lack of authority on the part of the attorney, or something of that kind.

It seems to me that this court may be trusted and that the law officers of the Government may be trusted to protect the United States against any exorbitant claims on the part of this citizen, who is a stranger to me and whom I never saw. This bill came before our committee with hundreds of others. It was presented here by a Representative on the floor like other bills, and it received the same kind of treatment that other bills receive, and, so far as I am concerned, it had almost passed out of my memory until I saw the printed paper to-day. The amendment proposed by the gentleman from Georgia is entirely satisfactory to the committee, because it guards the Government (if it needs guarding); the parties may appeal as before, and the whole matter is opened up so that it may be fully investigated.

Mr. HOPKINS. Mr. Chairman, I should like to be recognized for five minutes.

Mr. LAIDLAW. I yield to the gentleman.

Mr. HOPKINS. Mr Chairman, the amendment offered by the gentleman from Alabama changes the entire scope and character of the bill. It seems to me that in view of this the bill should be recommitted to the Committee on Claims, that they may consider the original bill in connection with the pending amendment. I therefore move that the bill with the amendment be recommitted.

Mr. LAIDLAW. I hope that will not be done. The Committee on Claims have been working diligently session after session; they are almost buried under the bills now before them; and I do not know that they could find time for the further consideration of this matter. Besides there is nothing new for the consideration of the committee. The whole question is before this House, and it is simply whether this man shall be allowed to go back to the court, all rights of the United States being reserved, and make his showing. The committee certainly do not need to consider the question any further.

Mr. BURROWS. I would like to know the nature of this claim—what the original claim was about.

Mr. LAIDLAW. I do not know, for the simple reason that I had supposed the claim itself would be merged in the judgment. Whether it was for goods sold or services rendered for dredging, for construction of light-houses, or anything else can not be a very material matter as long as the court has passed upon the claim and it has become merged, as I understand, in the judgment.

Mr. COBB. Do I understand the gentleman to say that the committee goes no further than to consider the fact that a request is made, based upon the assertion that new facts have been discovered? Has the claimant produced no evidence before the committee to show what those new facts are?

Mr. LAIDLAW. Does the gentleman ask me that question?

Mr. COBB. I do.

Mr. LAIDLAW. Well, I will answer it. Since we have been talking I have sent to the fileroom—the grave of the business of various preceding Congresses—and I have obtained a large bundle of papers in which all this business is shown.

Mr. COBB. What are the facts——

Mr. LAIDLAW. Let me complete my answer. What I stated was not that the committee did not investigate the facts and the equities of this matter, but that we did not think the House of Representatives would turn itself into a court sitting in special term to hear motions; and therefore it was not thought necessary——

Mr. COBB. Does not the gentleman apprehend that we are sitting here as a court when we are applied to for a removal of the bar of the statute of limitations?

Mr. LAIDLAW. I have not seen this House in the list of courts. [Laughter.]

Mr. COBB. Does not the gentleman apprehend that the House of Representatives can sometimes act judicially?

Mr. LAIDLAW. It acts with very little judgment often. [Laughter.]

Mr. COBB. Yes, whenever it is led by the gentleman from New York.

Mr. LAIDLAW. I never saw it act judicially, at least not very often. [Laughter.]

Now, what I mean to say is that the committee thought that all the House would want to know was that this is a case where the claimant asserts that there has been a mistake of facts and produces abundance of

papers to sustain his claim; in such a case we thought it would be well enough to let the claimant meet the law officers of the Government before the court and that this House would not really undertake to try the merits of the matter here.

Mr. COBB. Did not the committee act somewhat judicially when they were passing on those facts?

Mr. LAIDLAW. No, we call it acting justly.

Mr. COBB. What is the difference between acting justly and acting judicially? Will the gentleman please explain?

Mr. LAIDLAW. There is a distinction.

Mr. COBB. Well, I should like to know what it is.

Mr. LAIDLAW. I am a little embarrassed this morning——

Mr. COBB. I suppose you are; you have disclosed that to the House already. But what I want to urge upon the gentleman is this: The committee having, as the servant of this House, acted judicially, shall not this House act judicially in passing upon the same facts on which the committee based its judgment? The point I urge is that those facts ought to be disclosed here to the House.

Mr. LAIDLAW. The point I make is this: We did not have to decide this motion, we did not have to pass upon the merits of the motion, for the reason that the other side was not represented. We did not consult the officers of the United States; we had not the Attorney-General before us. It was enough that we granted him the right he asked—to be heard before the court.

Mr. COBB. Exactly; and now you propose that the House shall act on your judgment as a committee without making inquiry for itself into the facts.

Mr. LAIDLAW. Yes, we ask, with the gentleman's permission, that the House vote to let this man be heard.

Mr. COBB. Because the committee, after investigating certain facts, believe he ought to be heard?

Mr. LAIDLAW. Yes.

Mr. COBB. Now, what I say is that this House, the master of the committee, ought to know the facts upon which the committee based its judgment, so that we may form our independent judgment. Therefore I desire that those papers be read.

Mr. LAIDLAW. If we had been called upon to decide the whole merits of the business, we would have looked faithfully into every allegation of the papers; we would have invited the Attorney-General to present before us his side of the case; we would then have considered the question whether this party ought to succeed in his motion or whether the agreement he had made should stand. But that was not the issue before us as we understood. This man was not asking to make his motion before the committee or before the House; he was asking leave to go before a court that had jurisdiction of the parties and the subject-matter and make a motion; and we thought it well enough to grant him that leave.

Mr. COBB. I want to ask the gentleman this question. Did not the committee consider it their duty to go far enough in this inquiry of facts to cause the complainant to make out before the committee a *prima facie* case which would warrant the opening of this judgment?

Mr. LAIDLAW. Yes, we thought that.

Mr. COBB. Now, if that was your view——

Mr. LAIDLAW. Let me read what we say as a committee:

> The claimant has produced evidence tending to show that he was induced to remit said sum under a mistake of facts.

Now that question, it seems to me, presents a very fair and plain proposition. We did not want to say "showing" such and such a state of facts, because we were not the judges, but that he presented evidence "tending to show." The committee were careful in the choice of words.

Mr. COBB. Just allow me a moment on that proposition, if you please.

Mr. LAIDLAW. Yes.

Mr. COBB. A very small item of testimony might be sufficient to "tend to show," and the committee in its consideration of the matter might well put that sentence in the report with no evidence that would justify the House in acting upon it.

But what I claim, Mr. Chairman, is that this committee should go far enough to enable it to stand up in the presence of this House and say that this claimant has produced evidence enough before the committee to convince them that, unrebutted, it would warrant the court in taking the action prayed for by him; in other words, that the claimant had made out a *prima facie* case. But he does not do that in presenting evidence "tending to show." That evidence which tends to show must be of such a character that if uncontradicted it would warrant the setting aside of this action of remitting a part of the judgment.

Now, the point which I wish specially to impress upon the committee is, notwithstanding the witticisms of the gentleman from New York, that in this matter we are acting judicially. We are acting as a court would act if a motion was made before it to set aside a judgment during the term when the judgment was entered and grant a new trial, or in the case of some motion of a similar character which the court had authority to grant. Whenever such motion is made in court the law requires the party making it to produce, not evidence "tending to show" the fact alleged, but he is required to make out a case which, if it stands alone upon the evidence thus produced, would warrant any court of justice in acting upon it. But what is the situation here?

The bar of the statute of limitations has already had its effect. This matter has been settled. We are appealed to here to grant a new trial by removing the bar of the statute. The burden then is on the claimant to show a case to warrant the action prayed for. It is the veriest trifling with the law to say, "Oh, it is nothing but the sending of the case to the court." There is something more than that in it. There must be something presented in the claim to warrant the setting aside of the bar. Besides, Mr. Chairman, the setting aside of the bar is an act of injustice to the Government itself, because it puts the Government of the United States in a different attitude from what it occupied six years ago, or it presumably does that. This man himself might have been a valuable witness.

Mr. LAIDLAW. Is he dead?

Mr. COBB. An administrator here is claiming, and I presume he is dead. I never heard of an administrator of a living man.

Mr. LAIDLAW. Sometimes.

Mr. COBB. Never. Now, the application is made to us as judges to determine whether or not on the facts of the case as presented by the committee which considered the matter we ought to take the case, proceed in the course marked out by the committee, and open it anew by setting aside the bar of the statute. But, mark you, the application is not to reopen the whole case. You can not put the parties *in statu quo*. You can not put them in the same position they occupied relatively when the case was first presented. This claimant has already received about $7,300.

The United States has already paid a part of the claim. He does not propose to restore what was paid to the Treasury of the United States. He proposes to hold fast upon that and go back to the court to determine as to whether or not the four thousand and odd dollars which was remitted was remitted by a mistake of facts or not. I repeat, then, you can not put them back *in statu quo* in regard to that. Even my amendment fails to do that much. Suppose you adopt the amendment—and I shall not support the bill even with the amendment—but suppose you adopt it, what then?

Why, the reopening of the case, with this amount of money paid, can not be doing full and complete justice to the Government and the people of the United States. You give the man an opportunity (who by these repeated efforts on his part succeeded in getting a decision awarding him a large amount of money, which has been paid to him, and after he has received all that he is justly entitled to) to come back and lodge a claim in court for another amount of money which he relinquished in the purchase of the Government's right of appeal. There is no view you can take of the case which would sustain the report of the committee in its results, at least not until the House is put in possession of the facts on which the committee acted and which they claim justified the action.

Mr. LAIDLAW. Mr. Chairman, the learned gentleman from Alabama who has just taken his seat——

Mr. HOPKINS. Mr. Chairman, I would like to have a vote on my motion to recommit the bill and pending amendment.

The CHAIRMAN. That motion is not now in order. The gentleman from New York has the floor.

Mr. LAIDLAW. What I was saying was this, and it would seem to me the House could readily understand the proposition: The claimant in this case recovered a judgment against the United States. The United States appealed; the appeal was compromised upon the claimant remitting some $4,000 of the claim. He comes now and says that the remitting of the $4,000 was under a mistake of facts on his part. He brings his appeal here, not for the purpose of being paid $4,000 or any other sum; not for the purpose of compelling the Court of Claims to award him $4,000 or any other sum; but he comes asking this body to give the court power to hear him on that proposition and that alone. And what is the proposition? That he remitted the $4,000 under a mistake of facts.

Now, what your committee say is this: That it was not their province to try his application on its merits, because they had no jurisdiction under the law to pay him; but they heard him sufficiently to warrant them in saying that he had a claim; that he had evidence tending to show a mistake of facts on his part; and that being so, they only thought it proper to report to the House that such a case was made up, and to ask the House to authorize him to go before the court upon notice to the Attorney-General, present his proofs as to whether any mistake of fact was in fact made, and if so that the court do justice in the premises either by denying the claim or restoring the $4,000 improperly or by a mistake surrendered by him.

Something has been said about "presumptions." The presumption is that the judgment of the court is right until it is reversed.

My learned friend [Mr. COBB] says the presumption is that when you appeal the judgment is wrong.

Mr. COBB. Oh, no; I did not say any such thing.

Mr. LAIDLAW. If you do not mean that, you will have to hunt up the stenographer and change it, for that is what you said.

Mr. COBB. You will not find any such assertion as that if I was correctly understood, as I have no doubt I was.

Mr. LAIDLAW. I say the presumption always stands in favor of a judgment until some higher power reverses it.

Mr. COBB. I say it is presumed to be wrong by the man who takes the appeal.

Mr. LAIDLAW. Now, all there is about this matter is that gentlemen seem to act upon the supposition that if the committee report a bill here they are *prima facie* a set of fools. I have not seen a single solitary private bill for the relief of a citizen come in but what it seems to have been a point of honor to attack the committee and attack the bill and deny the relief without knowing anything about it.

Mr. COBB. And the committee have given some ground for the criticism by bringing in a report without presenting any evidence that tends to show the justice of the claim.

Mr. LAIDLAW. Some gentlemen seem to assume that the committee who have investigated the matter can not possibly know anything about it.

Mr. BUCHANAN, of New Jersey. If my friend will yield for a question, I will ask him whether his bill does not go further than he is stating and undoubtedly further than he supposes it to go. Is it not a fact that by the third section, if this judgment is reinstated, you provide for its immediate payment out of the Treasury and do not provide for any appeal to the Supreme Court?

Mr. LAIDLAW. An amendment has been offered which the committee are perfectly willing to accept, which will cover the point suggested by the gentleman.

Mr. BUCHANAN, of New Jersey. The battle of the giants down there has been conducted in such a low tone that I was unable to hear what had been done.

Mr. LAIDLAW. Giants! that is pretty good. [Laughter.]

Mr. HOPKINS. Can we not have a vote on my motion, Mr. Chairman?

The CHAIRMAN. The first question is upon the amendment offered by the gentleman from Alabama.

Mr. HOPKINS. Will not my motion to report this bill back to the House with instructions to recommit it to the committee properly come in before the adoption of the amendment?

The CHAIRMAN. It is usual to perfect a bill before such a motion is voted upon. The first question is upon the amendment offered by the gentleman from Alabama, which the Clerk will read.

The Clerk read as follows:

Provided, That the entire judgment shall be considered set aside and a new hearing on the merits be awarded to both parties with the same rights, including the right of appeal, to either party to the cause.

The CHAIRMAN. The question is upon the amendment.

Mr. HOPKINS. I would like to make an inquiry. I would like to know whether the judgment has been paid by the United States Government. If so, this amendment is not full enough, as it should provide that before the case is reopened the amount which has already been paid should be paid back into court.

Mr. COBB. The amendment is not full enough, and upon reflection I think it is not well stated, for it provides that the judgment shall be set aside. This House can not set aside a judgment.

The CHAIRMAN. The question is upon the amendment.

Mr. COBB. I would like to modify my amendment.

Mr. LAIDLAW. I object to that.

The CHAIRMAN. The gentleman desires to perfect his amendment. Without objection, that will be allowed. Is there objection on the part of any gentleman? [After a pause.] The Chair hears none.

Mr. COBB. The amendment says that we should set aside that judgment. We do not mean it in that way.

The CHAIRMAN. Without objection, the gentleman from Alabama will be allowed to perfect his amendment.

Mr. KERR, of Iowa. Mr. Chairman, I would suggest that that should be amended so as to provide, as a condition-precedent to reopening this case, that security should be given to comply with the judgment of the court or that the money should be refunded that had been already paid.

The CHAIRMAN. The gentleman from Iowa can offer that as an amendment to the amendment or confer with the gentleman from Alabama with a view to putting it in the original amendment.

Mr. COBB. I will incorporate it in my amendment.

The CHAIRMAN. The gentleman from Iowa and the gentleman from Alabama may prepare an amendment.

Mr. COBB. I offer the following.

The CHAIRMAN. The gentleman from Alabama offers the following amendment in the place of the one heretofore offered by him. The Clerk will report the amendment.

The Clerk read as follows:

Provided, That the court shall have power to set aside the whole judgment, and to order a new trial, on such terms as to compliance with the final judgment as it shall deem just; and with the right of appeal to each party.

The amendment was agreed to.

The CHAIRMAN. The question is upon the motion of the gentleman from Illinois [Mr. HOPKINS] to recommit the bill and amendment to the Committee on Claims. As many as favor this motion will say ay.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COBB. Division.

The committee divided; and there were—ayes 20, noes 36.

So the motion was rejected.

The CHAIRMAN. The question is on the motion of the gentleman from New York [Mr. LAIDLAW] that this bill be laid aside with a favorable recommendation.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LAIDLAW. Division.

The committee divided; and there were—ayes 66, noes 29.

Mr. COBB. Tellers, Mr. Chairman.

Tellers were refused, only 16 members rising.

Accordingly the bill was laid aside with a favorable recommendation.

ALLARD & CROZIER.

The next business on the Private Calendar was the bill (H. R. 2886) for the relief of Allard & Crozier.

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 Allard & Crozier, of McCracken County, Kentucky, out of any money in the Treasury not otherwise appropriated, the sum of $1,500, for commissary stores taken and used by the Army of the United States during the late war.

Mr. STONE, of Kentucky. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

Mr. HOPKINS. I would like to hear the report of the committee on that bill.

The report (by Mr. STONE, of Kentucky) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 2886) for the relief of Allard & Crozier, report as follows:

This claim is for 200 barrels of flour taken from Allard & Crozier, of Paducah, Ky., on the 6th day of September, 1861, by order of General E. A. Payne, commanding United States troops at that point.

General Newsham, in reply to a letter of inquiry from General A. B. Eaton, Commissary General, under date of September 4, 1874, says:

"The flour, amounting to 360 barrels, and all other property in the depot were turned over in my presence by order of General Payne to William G. Pinckard, lieutenant and acting assistant quartermaster, for use of the troops. The said flour belonged to Mr. Slack and to Allard & Crozier, of Paducah. Mr. Slack claimed 160 barrels and Messrs. Allard & Crozier 200 barrels. I may have given these gentlemen receipts for the above within a day or two or so after the capture of Paducah, but at this length of time I can not be certain. The flour was not paid for, but was issued by Lieutenant Pinckard to the troops. If the flour so taken by us at that time has not been paid for by your department, I would consider a claim at fair rates per barrel as eminently just and proper, for the said flour was used for the Army."

The loyalty of claimants at the date of the taking of the flour and ever since is clearly established beyond controversy.

Claimants filed their claim in the office of the Commissary General, and that officer rejected the claim for the reason that he was not satisfied as to the loyaty of the claimants.

The officer who took the flour vouches for the loyalty of the claimants. The collector of internal revenue at Paducah, Ky., under date of April 28, 1873, in a letter to the Commissary General, says that the claimants were loyal during the war.

The flour was worth at the time it was,taken $7.50 per barrel, amounting to $1,500.

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage.

The bill was ordered to be laid aside to be reported to the House with the recommendation that it do pass.

SAMUEL FELS.

The next business on the Private Calendar was the bill (H. R. 2876) for the reliet of Samuel Fels.

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 Samuel Fels, of McCracken County, Kentucky, out of any money in the Treasury not otherwise appropriated, the sum of $2,333.62, for tobacco purchased by him from an agent of the United States Government, and afterwards recovered and taken from him by the owner.

Mr. STONE, of Kentucky. Let the report be read.

The report (by Mr. STONE, of Kentucky) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 2876) for the relief of Samuel Fels, report as follows:

That the proof in this case shows that the claimant purchased five hogsheads of tobacco from John E. Woodward, as sold by him under military orders of General E. A. Paine, then commanding the Western District of Kentucky, and paid said Woodward therefor $2,333.62; that on February 20, 1865, E. A. Lindsay, by his suit against Mr. Fels in the Jefferson County circuit court of Kentucky, established his right to said tobacco as the owner thereof at the time it was seized and sold by order of General Paine. The court decided that the orders of General Paine, in seizing and selling said tobacco, were illegal, and that no title passed to Mr. Fels; and the claimant was forced to and did pay the owner of said tobacco, E. A. Lindsay, its value, being $2,504.85.

Your committee are of opinion that Mr. Fels bought (and paid for) said tobacco, in good faith, from the military authorities of the United States without notice of said Lindsay's ownership thereof or claim thereto, and that he should be reimbursed for the amount he paid for it.

Your committee report back the bill and recommend its passage.

Mr. STONE, of Kentucky. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

Mr. BUCHANAN, of New Jersey. Mr. Chairman, I think we ought to have some explanation of the bill. This bill as it appears presents simply this situation: that a gentleman buys of another gentleman some

tobacco alleged to have been sold by direction of military orders issued by General Paine. A third party goes into a Kentucky court and sues for the tobacco, claiming that he was the owner. He recovers judgment for the amount, the purchaser of the tobacco satisfies the judgment, and now asks the United States to reimburse him the money which he had paid for the tobacco.

There is nothing in the bill, nor in the report, so far as I can see, which shows that any effort was made by Mr. Fels to recover from Mr. Woodward the money which he paid to him and which he was afterwards compelled to repay to the ascertained owner of the tobacco. It may be said that such an effort was made and that it was fruitless; but there is no information in the report upon the subject. There is another matter in connection with this case which deserves the serious attention at least of this committee, and that is a question as to how far the United States Government is to be concluded by the judgment of State courts between litigants, or, if it was in a United States court, between litigants in those courts, in cases in which the Government is not made a party, is not a party in the record, is not represented in any way, or its interests looked after. Because I, for one, want all these claims that are just to be satisfied as soon as possible, and it is a great shame that these unsettled matters have existed until this late date after the close of the war. I should have been better satisfied if this bill had provided for a certification of the whole matter to the Court of Claims to ascertain the facts and to report. These questions arise upon the face of the report, and may be capable of explanation, but the report does not explain them.

Mr. ROWELL. I would like to ask the gentleman, was this money paid over to the United States? There is no such statement in the report.

Mr. BUCHANAN, of New Jersey. Or to the individual?

Mr. STONE, of Kentucky. In answer to the gentleman from New Jersey on the point he made in regard to Mr. Fels having made or not having made an effort to collect this money back from the agent or quartermaster who sold it under General Paine's order, I have only to say that the gentleman is not posted in the law of the country, notwithstanding his exhibition of great legal learning. If the gentleman had been he would have known that a law was passed early in the war relieving from responsibility for anything of this kind any officer of the United States Government.

But, Mr. Chairman, in answer to the question asked as to whether he had made an effort to collect it, he had no chance to recover it from the man who sold the tobacco. The tobacco was sold under the order of General Paine, stationed at Paducah. Then the man whose tobacco it was, followed the tobacco to Louisville, where it was shipped to be sold, instituted suit and recovered a judgment against Mr. Fels, and Mr. Fels was required to pay him the same amount of money as that now in the hands of the United States Government. Mr. Fels was deprived of his money through the action or the order of General Paine primarily; still the Government has received the benefit of Mr. Fels's money and Mr. Fels has been out of it from that date until this.

Mr. Fels comes here to-day and asks the Government of the United States to pass an act giving him the exact number of dollars of the judgment recovered against him. That is all there is in the case. Mr. Fels is a loyal citizen of the country. He has always been loyal, and is a Republican to-day—one of the few down in that part of the country—and he is asking this Republican Congress to give him back his money. That is all there is of the case.

Mr. BUCHANAN, of New Jersey. Will the gentleman permit me to say that there is nothing in the report at all which discloses the fact——

Mr. STONE, of Kentucky. Will the gentleman permit me to say——

Mr. BUCHANAN, of New Jersey. If he will permit me to finish my sentence I suppose we can expedite this matter. There is nothing in this report which shows that Mr. Woodward was a quartermaster or was acting as such. If that appeared in that report, we have information on the law in respect to that situation of the case.

Mr. STONE, of Kentucky. That is the condition of the case. And I can go further and say that this bill was once before thoroughly discussed by the House, and it finally passed.

The question was taken, and the bill was ordered to be laid aside to be reported to the House with the recommendation that it do pass.

PETER LYLE.

The next business on the Private Calendar was a bill (H. R. 2456) for the relief of the legal representatives of Peter Lyle, deceased.

The bill was read, as follows:

Whereas Peter Lyle, deceased, late colonel of the Ninetieth Pennsylvania Volunteers, was mustered out of the service of the United States in the field in front of Petersburgh, Va., November 26, 1864, for wounds received in battle, and which incapacitated him for further duty; and

Whereas a certificate of pension was, on account of his service and wounds received therein, issued to him on July 16, 1879; and

Whereas pending the adjudication of his pension claim he was, solely by reason of his injuries, wholly unable to labor or in any way earn his maintenance, and was supported from the private means of personal friends, whose advances he engaged and promised to refund out of the arrears of pension due him when he should receive the same; and

Whereas he died on July 17, 1879, after years of great suffering, and after his clear right to pension was fully established and the amount of arrears due him had been definitely ascertained and ordered to be paid to him by the pension agent at Philadelphia; and

Whereas it was indubitably his intention and desire to apply such amount to the discharge of his debts thus incurred and predicated on such allowance, and for the payment of which his honor was pledged; and

Whereas he died interstate, unmarried, and without issue; and

Whereas letters of administration on his estate were duly granted to Vincent P. Donnelly, of Philadelphia, on November 5, 1879, the application for said letters being for the sole and express purpose of disbursing said arrears according to the wish and obligations of Colonel Lyle; and

Whereas the amount of said arrears, in the sum of $3,724, was unquestionably the property of Lyle as soon as his right and title thereto were certified by the Commissioner of Pensions, and would have been paid into his hands but for the accident of his death before the formal vouchers were presented for his signature; and

Whereas the official construction of the law interposes a technical bar to the payment of said money to said administrator; and

Whereas a just and equitable regard is due from the Government to the dying wishes of a brave, accomplished, and deserving officer, who not only gave his life to the service of his country, but endured years of physical suffering, added to the years of torture to which his sensibilities were subjected by his enforced obligations incurred to friends for his daily bread and needs, and inability to offer them other security than the justice of his country when it might choose to recognize its obligations; and

Whereas a moral obligation was thereby bequeathed by him to his Government, which it is in equity and good conscience bound to discharge; and

Whereas the fact that the certificate was actually issued and was practically in the nature of a warrant for payment renders the equities in this case exceptionally perfect: Therefore, for the purpose of discharging the aforesaid obligations, the incurrence of which to the total of $3,909.86 has been incontestably shown and admitted, so far as the said arrears due at the date of Colonel Lyle's death pro rata may,

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay, out of the proper appropriation for payment of invalid pensions, to Vincent P. Donnelly, administrator of Peter Lyle, deceased, the sum of $3,724.

Mr. SAYERS. Mr. Chairman, unless we have some explanation as to this bill I shall have to object. My understanding is that it proposes to make this case an exception to the general law at that time in regard to payment of pensions, and it seems to me that this committee ought to have a statement of facts to justify the passage of this bill before acting upon it.

Mr. STONE, of Kentucky. I will explain this case, although the gentleman from Pennsylvania [Mr. VAUX] knows more about it than I do. This bill was introduced by the late Mr. Randall in the Forty-ninth Congress and was favorably reported to the House, but never reached. It was introduced again in the Fiftieth Congress and favorably reported, but was not reached.

Colonel Lyle was disabled while in the Army, and a pension was granted to him amounting, I believe, to $3,009; but between the time of the granting of the pension and the time when the certificate reached his residence he died. There was no law then to apply to the case and the Department declined to pay the amount allowed him. There is now a general law applying to such cases, but this occurred before the general law was passed, and of course the money can not be paid under the general law, and a special act is required in order that this money may be paid. Now, this money is due to the people who nursed and cared for Colonel Lyle after he had become entirely helpless, and the bill is simply to authorize the payment of a pension already granted and for which a certificate had been issued before the officer's death.

Mr. ENLOE. Mr. Chairman, I move to strike out the preamble of the bill. I do not think it is proper to encumber the statute book with such a preamble as that.

Mr. STONE, of Kentucky. There is no objection to striking it out. The preamble simply sets forth a number of facts bearing upon the case.

Mr. ENLOE. But the facts ought to be set out in the report, and not in the preamble of the bill.

The motion of Mr. ENLOE was agreed to, and the preamble was struck out.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

SAMUEL RHEA.

The next business on the Private Calendar was the bill (H. R. 2991) for the relief of Samuel Rhea.

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, out of any money in the Treasury not otherwise appropriated, the respective sums of money as hereinafter provided, to the respective persons named herein or to their heirs or legal representatives, to wit: John L. Rhea, executor of Samuel Rhea, deceased, the sum of $12,825.61, and to Joseph R. Anderson the sum of $1,803.35, being the proportion to which each party is entitled in sixty-three bales of cotton taken and receipted for by E. Hade, captain and assistant quartermaster, on the 19th day of September, 1864, at Atlanta, Ga., and turned over to the United States Treasury agents, and by them sold and proceeds turned over to the United States Treasory, as found in the Court of Claims, in the case of John A. Fain *vs.* The United States, 4th Court of Claims, Nott and Huntington, page 237.

Mr. STONE, of Kentucky. Mr. Chairman, I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

Mr. COBB. Let us have the report read.

The report (by Mr. STONE, of Kentucky) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 2991) for the relief of John L. Rhea, executor of Samuel Rhea, deceased, and Joseph R. Anderson, report as follows:

The facts out of which this bill for relief arises will be found stated in House

report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto appended for information.

Your committee adopt the said report as their own and report back the bill and recommend its passage.

[House Report No. 4096, Fiftieth Congress, second session.]

The Committee on War Claims, to whom was referred the claims of John L. Rhea, executor of Samuel Rhea, deceased, and Joseph R. Anderson, report as follows:

The claim of Rhea is for part of the proceeds of 58 bales of cotton, seized in 1864 by the United States military authorities in the city of Atlanta Ga., and turned over to the Treasury agents, and by them sold and the proceeds paid into the Treasury.

Early in the year 1862 the decedent, Samuel Rhea, sent $12,498.80 to J. A. Ansley, of Augusta, Ga., of which sum $5,010 belonged to his son-in-law, John H. Fain, to be invested in raw cotton, and the expenses attending the same to be paid by each in proportion to their respective shares. Ansley, it appears, invested the money sent him, as instructed, in the name of Rhea, and afterward, in the fall of 1862, shipped the cotton purchased in Rhea's name from Augusta, Ga., to Robert J. Lowery, a merchant in Atlanta, Ga. Lowery says:

"I had on storage in my house, to the credit of Samuel Rhea, 251 bales of cotton. I received it in the months of October and November, 1862. Twenty-five bales of this cotton was sold in November, 1863, to pay taxes, storage, etc.; burned in the warehouse during the shelling by General Sherman's forces, 43 bales; shipped to Gaines & Co., Macon, Ga., 125 bales, to be stored to the credit of Samuel Rhea."

It appears, in the year 1862, that N. M. & Robert J. Lowery purchased 65 bales of raw cotton, which they kept in their warehouse at Atlanta until September, 1864, when it was all burned by General Sherman's forces except 5 bales, so that there remained the 58 bales of Rhea's and Fain's cotton and the 5 bales of Anderson's cotton in the custody of Mr. Lowery in Atlanta, which was turned over to Capt. E. Hade, as appears by the following receipt:

OFFICE ASSISTANT QUARTERMASTER,
Atlanta, Ga., September 19, 1864.

I certify that I have this day taken possession of the following property, for and in behalf of the United States, for Government purposes. Said property was found in the city of Atlanta immediately after its capture by United States forces. Said property is claimed to have belonged to R. J. Lowery, a citizen of Atlanta, namely (63) sixty-three bales cotton, marked D. [L.,] weighing (31,424) thirty-one thousand four hundred and twenty-four pounds. And will be duly accounted for on my return of quartermaster stores for the month of September, 1864. No payment has been made or tendered for said property.

E. HADE,
Capt. and A. Q. M.

The 63 bales embraced in the receipt—58 bales of Rhea & Fain and the 5 bales of Anderson—was taken in the name of R. J. Lowery, but Mr. Lowery in his evidence says:

"The cotton did not belong to me; but the receipt was taken in my name, because I was agent for the parties owning the cotton and expected to collect the money immediately from the Government; and the parties not being present to attend to it, it was thought best to take the receipt in my name."

The amount of money invested in cotton by Ansley in the name of Rhea was $12,498.80, of which sum $5,000 belonged to Fain.

Fain brought suit in the Court of Claims for the whole amount of the net proceeds of the 58 bales of cotton in 1867 (4 C. Cls., p. 237), and the court held that the facts in the case did not establish a partnership; that the ownership of the cotton before its seizure was joint, with the right of each party to control his interest at discretion; that Fain was justly entitled to recover of the proceeds of the sale of 58 bales of cotton a sum in proportion to the amount of his funds invested therein, which was found to be $8,360.

In the Price case (7 C. Cls., pp. 567 and 577) the Court of Claims delivered an elaborate opinion showing the amount and value of cotton taken from Atlanta which came to the possession of the Government, and it was found that the value of the 58 bales of cotton was $360.27 net per bale, of which $22\frac{6}{15}$ bales was Fain's proportionate share, which would leave Rhea's proportionate share $35\frac{9}{15}$ bales, at the rate of $360.27 per bale, amounting to the sum of $12,825.61 due Rhea. The 5 bales of cotton claimed by Anderson were taken and sold by the Government at the same time, which, at the rate of $360.27 per bale, would make due Anderson the sum of $1,803.35.

Both Rhea and Anderson were residents of Sullivan County, East Tennessee, that part of the State which was notorious for its loyal citizens; they both voted against and resisted secession and remained loyal to the Government of the United States throughout the war. Rhea was an abolitionist, and freed his slaves as early as 1848 and sent them to Liberia. Anderson was one of the board of directors of the East Tennessee and Virginia Railroad during the rebellion and was instrumental in having the rolling stock of the said road turned over to the Government of the United States.

Your committee report back the accompanying bill as a substitute for H. R. 2910, and recommend its passage, with the following amendment: That the words "five" and "fourteen" in line 9 be stricken out, and in lieu thereof the words "eight" and "twenty-five" be inserted, and in line 10 the words "seven," "three," and "fifty cents" be stricken out, and in lieu thereof insert the words "eight," "three," and "thirty-five cents."

Mr. CULBERSON, of Texas. Mr. Chairman, I would like to hear the bill read again.

The bill was again read.

Mr. CULBERSON, of Texas. I would like to inquire of the gentleman who introduced this bill, or of the chairman of the committee who reported it, how they arrive at the amount of money required by this bill to be paid to the persons named in it, and while I am on the floor I desire to remind such members of the House as may think proper to interest themselves in this matter that there is now in the Treasury a fund consisting of about $10,000,000 in money, which was placed there by agents of the Government as the proceeds of cotton sold by those agents during and after the close of the war.

The practice of the Treasury agents was to seize cotton as property belonging to the Confederate government and sell it, deducting the expenses of the sale and the leakage which had occurred on the route, and place the proceeds, less those deductions, in the Treasury. Now, just how much money the Treasury agent who seized this particular lot of cotton placed in the Treasury to the credit of that cotton is a very material and interesting question to be inquired into. I have looked somewhat into these transactions, and unless the Congress shall be very particular to pay over to claimants only the amounts which appear on the books of the Treasury to their credit, they will appropriate money which belongs to other people, to persons who have no claim upon it.

I submit, Mr. Chairman, that the manner in which we are appropriating this fund is altogether irregular and improper. There is a bill now pending on the Calendar which provides that a right of action shall be given to every person in the United States who claims an interest in this fund to propound his interest in the Court of Claims, and that if he can establish his right to any part of this captured and abandoned property fund it shall be paid over to him. That general law ought to be passed, because it would give all parties who claim an interest in that fund a right to go into the courts and prove their respective interests in it.

It is a fact that since the close of the war and indeed from 1862, when the captured and abandoned property act was passed authorizing the seizure of this kind of property and its sale and the deposit of the proceeds in the Treasury, there was a very large amount of property seized. Thirty million dollars was placed in the Treasury of the United States to the credit of the property thus seized and sold. Over twenty millions have been paid out and there is still ten millions remaining.

Mr. THOMAS. Is it not a fact that the statute of limitations has taken effect, so that there is none of that ten millions now due to anybody? It has been covered back into the Treasury.

Mr. CULBERSON, of Texas. I am coming to that. It will be remembered that the act of 1863 provided that any person who claimed that his property had been wrongfully seized and sold under that law and the proceeds of it placed in the Treasury should have a right of action in the Court of Claims and should have two years after the close of the war in which to bring suit and prove up his claim to the proceeds of the property. A great many suits were filed in the Court of Claims and large sums of this money were paid out upon judgments of that court. There was also a law passed, after the statute made a bar, to allow the Secretary of the Treasury to audit and pay these claims for one year, I believe covering 1871 or 1872. After that law expired there were still a great many claims left unpaid. Now, I desire to submit this proposition: I venture the assertion that the claimant to the cotton mentioned in this bill was disloyal. It appears that this cotton was held in the name of another person; for what object is not disclosed by the report.

Mr. STONE, of Kentucky. Mr. Chairman——

Mr. CULBERSON, of Texas. One minute more is all I expect to consume. The war closed for judicial purposes, so the Supreme Court decided, on the 20th of August, 1866, so that on the 20th of August, 1868, a bar had been made, and before the Southern people knew that they had a right to sue in the Court of Claims for this property a bar had been set up by that statute of limitation; for it will be remembered that in 1868 the Supreme Court of the United States decided that the President's proclamation wiped out the necessity of proving loyalty in cases of that sort and that a disloyal man had a standing in the Court of Claims to bring a suit of this kind.

Before that decision was promulgated or made public so as to become generally known throughout the South, the statute of limitations had made a bar; and therefore the Southern people who have an interest in this fund have been excluded from all participation in it; and only those who allege loyalty and who have themselves failed to prosecute their claims in the Court of Claims within the time allowed by law or failed to present their claims to the Secretary of the Treasury under the act of 1871, are now being favored by special acts of Congress allowing them to withdraw from this fund the money to which other people in the South are as much entitled as they possibly can be.

Now, I submit that what Congress ought to do is to give us a general act (such a measure has been reported from the Committee on the Judiciary and is now on the Calendar) giving all persons a right of action in the Court of Claims to prove up whatever interests they may have in this fund, because the Supreme Court of the United States has decided that this money does not belong to the Government, that it has never been confiscated, and that the Government holds it in trust for the owners. That was decided in Kline's case, 13 Wallace.

Now, from year to year we are opening the Court of Claims to individual applicants. We require those individuals sometimes to prove loyalty and sometimes they are not required to prove it. But here is a bill which goes far beyond that practice and which bodily takes out of the Treasury a certain sum of money in order to pay these men who are alleged to have been loyal and yet who held this cotton clandestinely, without regard to the amount which was put into this fund, and without any regard whatever to the rights of the other people who have a common interest in this money.

Now, I submit that this practice ought to be stopped. If you intend to keep up the practice of paying this money only to loyal men, although the Supreme Court of the United States has decided that a disloyal man is entitled to his share of it as much as a loyal man, because his disloyalty was wiped out by the proclamation of the President and because the Government never confiscated the property, because it seized it and put it into the Treasury for the use and benefit of the owners—I say, if you intend to keep up this practice of paying

out this money only to loyal men, instead of giving a just share to every one whom the Supreme Court has decided to have an interest in it, then you ought to remit this bill to the Court of Claims and require applicants to prove loyalty to the Government of the United States. And the bill should further provide that not a dollar shall be paid over except what the books in the Treasury Department disclose the cotton sold for. Some day or another you will pay——

Mr. STONE, of Kentucky. I would like to know how much time the gentleman wants to occupy.

Mr. CULBERSON, of Texas. I took the floor for an hour.

Mr. STONE, of Kentucky. The gentleman rose to ask a question and I yielded for a question, and now he proceeds to debate the bill.

Mr. CULBERSON, of Texas. I did not understand the matter that way. I beg the gentleman's pardon. I thought I had the floor.

Mr. STONE, of Kentucky. I yielded only for you to ask a question.

The CHAIRMAN. The Chair understood the gentleman from Kentucky [Mr. STONE] to rise simply to make a motion that the bill be laid aside to be reported favorably to the House.

Mr. STONE, of Kentucky. I did that; and the gentleman at once rose to ask a question; and now he goes on to debate the bill. I should like to know how much time he wants to conclude his question.

A MEMBER. The gentleman from Texas is entitled to the floor.

Mr. STONE, of Kentucky. Not unless he is recognized.

Mr. CULBERSON, of Texas. I beg the gentleman's pardon. I did not intend to intrude on his time.

The CHAIRMAN. The Chair will state the situation. The gentleman from Kentucky rose, and moved that the bill be laid aside to be reported with a favorable recommendation. He did not undertake to hold the floor for an argument. Pending that motion the gentleman from Texas was recognized by the Chair and the Chair sees no reason why he should not proceed for an hour if he so desires.

Mr. STONE, of Kentucky. Then the gentleman from Texas is recognized to control the time.

The CHAIRMAN. Not at all. The gentleman from Kentucky did not retain the floor, and the Chair was obliged to recognize any other gentleman who claimed it.

Mr. STONE, of Kentucky. The gentleman from Texas stated distinctly that he wanted to ask me a question.

Mr. CULBERSON, of Texas. And while I was on the floor I desired, as I said, to debate the bill.

The CHAIRMAN. This is a matter between the gentleman from Texas and the gentleman from Kentucky controlling the bill.

Mr. CULBERSON, of Texas. I have said about all I wanted to say.

Mr. STONE, of Kentucky. I did not propose to yield to anybody for an hour. I do not like having the balance of the day taken up on this bill in discussing other propositions.

The CHAIRMAN. Unless a gentleman having charge of a bill occupies the time himself the Chair must give the time to other gentlemen desiring it.

Mr. STONE, of Kentucky. The Chair must certainly recognize me as in charge of the bill unless he departs from the custom and from the ruling which he made not an hour ago.

The CHAIRMAN. The Chair certainly recognized the gentleman as having charge of the bill; but if he does not see fit to occupy the time the Chair has no right to prevent other gentlemen from doing so. The Committee of the Whole desires to hear discussion, as the Chair presumes.

Mr. STONE, of Kentucky. I have no objection to a discussion of the bill, but I do object to the floor being occupied by a discussion of matters that do not relate in any way to this bill.

The CHAIRMAN. The gentleman from Texas will proceed in order.

Mr. CULBERSON, of Texas. How much time have I consumed?

The CHAIRMAN. Twenty minutes.

Mr. CULBERSON, of Texas. Well, I will not occupy much more time on this matter.

Mr. STONE, of Kentucky (to Mr. CULBERSON, of Texas). All right; go ahead; if you have charge of the bill I will retire.

Mr. CULBERSON, of Texas. I hope the gentleman will not take the matter in that way. When I rose I remarked to the gentleman that I would like to ask a question, and after I had propounded the question I said I would like to occupy the floor in debating the bill, and I proceeded to do so.

Mr. STONE, of Kentucky. I did not hear that remark. If you are recognized you can proceed.

Mr. ADAMS. Will the gentleman from Texas state whether the sum of money, amounting to ten million of dollars or more, which he says has been in the Treasury some years, includes the money derived from the sale of the cotton in this case?

Mr. CULBERSON, of Texas. I do not know. That is just what I say Congress ought to know before it passes this bill.

I desire only to say, Mr. Chairman, in addition to this that there is no proposition clearer in itself and that there is no proposition which has been more clearly established by the Supreme Court of the United States than that this fund now in the Treasury of the United States does not belong to the Government. There have been several decisions covering that point. The Supreme Court decided unequivocally that it belongs to those persons from whom the cotton was taken by the Treasury agents, and the only reason why they can not get it out of the Treasury is that Congress has refused since 1871 to give any right of action against the Government in order to prove up the claims. That is the only reason. Under the act of 1863 they had a right of action for a period of two years after the close of the war, but that statute of limitation had made a bar long before the Southern people, who are mainly interested in this fund of $10,000,000, knew that they had any interest whatever in it.

Now, if I understand the bill before us it provides that the Secretary of the Treasury shall pay out of the Treasury—and this money has been all covered into the Treasury by an act of Congress, covered into the general assets of the Treasury, although the courts hold it is a trust fund—the bill requires the Secretary of the Treasury to pay out certain sums of money to these claimants, the same being the amount of the proceeds of the sale of cotton seized and taken from them in Savannah, Augusta, or elsewhere, in 1864.

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

Mr. CULBERSON, of Texas. Certainly.

Mr. HOOKER. I understood you to say that by act of Congress this fund, which the courts declare to be specifically for the purpose of paying certain claims against the Government, had been covered back into the Treasury.

Mr. CULBERSON, of Texas. Yes, sir.

Mr. HOOKER. When was that action taken?

Mr. CULBERSON, of Texas. I do not remember when the act was passed, but it was some time in the seventies. At all events it has been covered into the Treasury.

Mr. BUCHANAN, of New Jersey. If the gentleman will yield to me for a moment, I find in the case of Fain *vs.* The United States, as shown by the report in the 4th Court of Claims, page 238, that this identical money was covered into the Treasury by the Treasury agents.

Mr. CULBERSON, of Texas. Very well; if that is the fact it presents——

Mr. BUCHANAN, of New Jersey. Not as to the amount, but for the identical bales.

Mr. CULBERSON, of Texas. But the main point is as to the amount covered into the Treasury.

Mr. JOSEPH D. TAYLOR. If the gentleman from Texas will allow me to offer an amendment I think it will cover the very point he has in view.

Mr. CULBERSON, of Texas. In a moment. It makes no difference so far as the amount of bales is concerned, as stated by the gentleman from New Jersey. The question is, how much money went in? They sometimes seized a hundred bales and only put in the proceeds of fifty after it was repacked, you understand.

The CHAIRMAN. In the absence of objection, the Clerk will read the amendment proposed by the gentleman from Ohio.

The Clerk read as follows:

Amend by adding:
"*Provided*, That no greater sum shall be paid to these claimants than was paid into the Treasury as the proceeds of the sale of the cotton for which they ask to be reimbursed."

Mr. CULBERSON, of Texas. That ought to be adopted as far as it goes if you are going to continue the practice of passing special acts, which I think ought not to be continued. And the amendment ought to be made, perhaps, broader by requiring the proof of the loyalty of those applicants to be made either to the Treasury Department or to the Court of Claims; or it ought to be announced by Congress that loyal and disloyal persons alike, holding an interest in this fund, shall be paid their respective interests in it.

I yield the balance of my time to the gentleman from Alabama [Mr. OATES].

The CHAIRMAN. The gentleman has twenty minutes.

Mr. OATES. Mr. Chairman, I have had occasion to investigate, not this particular case, but other and kindred cases, with reference to this captured and abandoned property fund. I do not think that any bill ought to pass paying any one of these claimants any part of that fund until the claims of all the claimants can be passed upon.

I had charge, under instructions from the Judiciary Committee, one or two sessions ago, of a bill in favor of a claim for a very large amount of this fund, and after having it before the Committee of the Whole House on two or three different occasions, and an extensive discussion having been had, it was finally resolved against the payment, mainly on the ground that the selection of a claim here and there and the payment of them out of this fund might work great injustice to all the others, and that it was not a proper disposition to make of the matter. I have ever since acquiesced in that decision.

The trouble now is that the act which allowed the prosecution of claims before the Court of Claims for the proceeds of the sale of captured and abandoned property expired by its own limitation, and all of this fund, amounting in the aggregate to over $10,000,000, is held by the Government in trust. The question has been before the Supreme Court on several different occasions, and the court has held that the Gov-

ernment of the United States has no right to it and sets up no claim to any part of it. There was a question which prevented claimants from interposing and prosecuting their claims, and until that was adjudicated by the court no one who could not prove his loyalty knew whether to proceed or not. That was whether or not the law required proof in respect to the loyalty of the claimant who had accepted the amnesty and pardon of the President.

The proceeds never have been regarded in the light of the proceeds of property confiscated, but of property seized by the Government during the war for care, sold, and the proceeds covered into the Treasury to be held in trust for the benefit of the persons entitled to them. The act in terms, I concede, declared that it was for the benefit of people who were loyal to the Government of the United States. But after the several proclamations of the President of amnesty and pardon the question was made in more cases than one and decided by the Supreme Court that the President had the right to publish such proclamations, a right given him by the Constitution, that they were effective, and that all those classes who were reached or covered by the proclamations were completely relieved of their disabilities to prosecute in any of the courts. So that so far as the question of loyalty goes there is no difference as to the capacity of any of the people of the United States to prosecute any claims they have before any of the courts of the country.

That being true, what does Congress propose to do with this fund? Confiscate it at this late date? If so, by what right? Hold on to it; retain it? For what purpose? And for how long? More than a quarter of a century has already elapsed. When shall it ever be disposed of and what disposition shall be made of this fund? Before the law there is to-day no difference between the loyal and the disloyal claimant in respect to his capacity and his legal right to prosecute for his part of this money. But when he asks Congress to give him a statute to enable him to go before the court and prove his claim he is confronted by the inquiry, "Were you not disloyal during the war?"

Why should Congress longer hesitate? Why should Congress longer require a claimant to prove that he was loyal during the war, when all that has long since by legal and constitutional methods been wiped out? It does seem to me that it is mere child's play to continue tinkering with a case here and there in which the claimant tries to prove his loyalty in order to share in this fund, while others are excluded, not through any act of theirs—because whatsoever they did in the past has been wiped out—but for the want of legislation which opens the door of the Court of Claims to them to establish their just demands. Now, sir, instead of passing such a measure as this or for the relief of any single claimant, however meritorious his claim may be, this House should pass a bill opening the door of the Court of Claims to all persons who have claims against this captured and abandoned property fund.

Let them come before the court, and if they show it is theirs, let them have it. Every gentleman will see, on a moment's reflection, that the number of claims and the amount of them will be in excess of the aggregate amount which is held in the Treasury as the proceeds of such property. If you allow some to go in and prove their claims and obtain whatever they prove to be their full share, may you not do gross injustice to others equally entitled to share in that fund, or when in the distant future they are permitted by the act of a just Congress to establish their claims may it not be found that a part of the money to which they would have been entitled, had complete justice been done them, has been paid over to another or to others?

Now, sir, this is a complete summary of the reasons—and I think very substantial reasons—why this bill ought not to be passed. I would not to-day vote for the bill which I urged on a former occasion in favor of a citizen of my own State, for the reasons I have just given. I want justice done to all these claimants. I want all of them allowed an opportunity to come before the court with their proof, and nothing less than this will do complete and ample justice. So long as Congress allows a loyal claimant here and there to interpose the others equally entitled will never obtain their money.

Why should this House, Mr. Chairman, continue to make a distinction between the loyal and disloyal of more than a quarter of a century ago, in respect to the prosecution of their claims, when the highest tribunal in the land, the Supreme Court of the United States, has declared the effect of the President's constitutional action to be, and to have been, that no such distinction exists? How can any just man longer clamor and contend for such a distinction?

Mr. HOPKINS. Will the gentleman allow me to ask him a question?

Mr. OATES. Yes, sir.

Mr. HOPKINS. I was not in my seat when the gentleman began his remarks. Did the gentleman cite the case to which he refers?

Mr. OATES. I did not, but I can give you a brief of the cases; there are several.

Mr. BOATNER. You will find the decision in the case of Kline *vs.* The United States, 13 Wallace, 138.

Mr. OATES. There are several such decisions. In one case an amendment was attached to an appropriation bill in this House, declaring that the court should not pay any regard or give any effect to the pardon granted under the amnesty of the President with respect to such claims; and when that act was pleaded in bar of the right of the claimant to recover, the court held that act to be unconstitutional and void.

I do not see, Mr. Chairman, upon what principle any gentleman can base his objection to the enactment of a statute for the relief of this whole class of claimants, except upon the narrow and contracted view that because the claimants were in so-called rebellion they are never to be relieved of it and are never to have any benefit from the legislation of the country.

Why, sir, who was more disloyal than I? And yet under your law I have a right to occupy a seat in this House, and I have done so by the favor of the constituency of the Third district of Alabama for a great many years. Other gentlemen are in the same predicament. Many gentlemen here had the smell of Confederate brimstone upon their garments. Is that any reason why they to-day should not have as fair a show and stand as well before the courts of the country in litigation as any one else, while the Supreme Court has held that it is no cause for distinction or denial of right? Whatever may have been said or whatever gentlemen may think of the positions that were held by men on the one side or the other of that great controversy which shook this great continent for years, that belongs to the past. That, sir, belongs alone to God and to history; and it ill becomes a patriot now to dig up the dry bones of the past and stir up ill-feeling among a people who are now of common devotion to the flag and to the country.

Sir, I hope that this bill will be defeated and that a general bill may be passed. I believe there is one pending upon the Calendar. The gentleman from Texas [Mr. CULBERSON] has been introducing one at every session of Congress since I have been here, and I learn that one has been reported and is now on the Calendar. Let us lay aside and defeat this measure until that bill can be reached which will mete out even-handed justice to all these claimants.

[Here the hammer fell.]

Mr. THOMAS. Mr. Chairman——

Mr. STONE of Kentucky. Mr. Chairman, I have no disposition to enter into a controversy over the question of a general bill. I myself introduced, and there was reported from the Committee on War Claims in the Fiftieth Congress, a general bill applying to all these cases. The gentleman from Texas [Mr. CULBERSON] has done the same thing for years and has had it reported from the Committee on the Judiciary; but the gentleman has never been able to secure consideration for his bill, nor was the Committee on War Claims ever able to secure consideration for the bill reported in the Fiftieth Congress.

Now that is all I have to say with regard to the general bill except that I am in favor of it; but the position taken by the gentleman from Alabama [Mr. OATES] who has just taken his seat is that this bill must be defeated because a general bill has not been passed. These gentlemen want these matters adjudicated in the Court of Claims and so do I; but we come here to-day with a bill to provide for paying a claim of gentlemen whose cotton was seized and sold and the money for which went into the United States Treasury. That fact has already been ascertained by the Court of Claims. Now what reason is there, after the fact has been ascertained in this case, after the Court of Claims have told you that there was so much money due these claimants, and they have come to Congress and got in a position now to be heard and have their claims acted upon, what justice is there setting these gentlemen aside to wait for somebody else?

If you regard these claims as just and want to pay anybody, why not pay the man who has already had his claim determined? That is a question that can not be answered, except to say that we do not want to pay any of them. You have been paying these claims ever since the close of the war; and if you want to pay others why not pay this one now?

Mr. HOPKINS. Will the gentleman from Kentucky allow me to ask him a question?

Mr. STONE, of Kentucky. Yes, provided you do not take the time for an hour and secure recognition.

The CHAIRMAN. Does the gentleman from Kentucky yield?

Mr. STONE, of Kentucky. I yield for a question.

Mr. HOPKINS. What I want to ask the gentleman is, if we must not know how many claims there are pending and the amount of these claims before we can state to the House whether there will be a reduction on all the claims before distributing this $10,000,000 now in the Treasury?

Mr. STONE, of Kentucky. I do not know how many claims there are. I do not know the aggregate amount that may be included in all the claims that might be made.

Mr. HOPKINS. Now, it seems to me, and I will suggest this to the gentleman, that before we can act intelligently upon this we ought to know the aggregate amount of the claims filed for this $10,000,000. If they amount to $15,000,000, everybody will understand there must be a pro rata reduction; and it is manifestly unjust to allow one of these claims to be paid in full, to the exclusion of others who have equally just and honorable claims.

Mr. STONE, of Kentucky. Mr. Chairman, in answer to the gentleman from Illinois, I have to say that there is no way of ascertaining how much or how many of these claims will be presented, except you

give all an opportunity to present their claims, for there is no chance to know how many of these claims are just or how many are bogus and should not be paid at all, unless an adjudication of that question has been had by Congress. For his information I will tell him that the records of the Treasury Department show whom this cotton was taken from and they show how much cotton was taken in each particular case. They also show what the cotton was sold for. They show the net amount of money received for it and that it went into the Treasury. Now, the records of the Government show that it is as impossible for a man to get a claim allowed by the Court of Claims whose claim is not established by the records as it is to get anything by law that is unjust.

Mr. HOPKINS. But let me ask the gentleman——

Mr. HEARD. Will the gentleman allow me a question?

Mr. STONE, of Kentucky. One at a time. I will hear the question of the gentleman from Illinois.

Mr. HOPKINS. Is there not a dispute between the party and the Government as to the amount of cotton taken?

Mr. STONE, of Kentucky. There is no controversy between the Government and the claimant about the amount of cotton taken or in reference to the price that it was sold for. Now, I will yield to the gentleman from Missouri for a question.

Mr. HEARD. The question I desire to ask the gentleman from Kentucky is, if the amount of money which went into the Treasury as the proceeds of this particular cotton has been ascertained.

Mr. STONE, of Kentucky. It has been ascertained and ascertained by law.

Mr. HEARD. I understood the controversy between the gentleman from Texas [Mr. CULBERSON] and the gentleman from Kentucky to be as to the amount of money actually received for the cotton.

Mr. STONE, of Kentucky. The court has found that so many bales of that cotton belonged to certain individuals; that that cotton was worth so much money, and it further finds that the whole amount realized from the sale of that cotton was paid into the United States Treasury.

Mr. HEARD. Then I understand the gentleman to say that the specific amount has been ascertained for which these people would be entitled to recover.

Mr. STONE, of Kentucky. That has been ascertained.

Mr. BOATNER. Does not this bill limit the relief to be granted to the amount which the books of the Treasury show was realized from the sale of this particular cotton?

Mr. STONE, of Kentucky. Yes, sir.

Mr. MCRAE. Does not the gentleman well know that under the captured and abandoned property act all the expenses and salaries paid the agents, and a great many other expenses, were to be deducted from the fund?

Mr. STONE, of Kentucky. They were deducted from it and the net proceeds of the sales went into the Treasury.

Mr. MCRAE. While the record shows the net proceeds went into the Treasury, the salaries of these officials who handled this fund, which amounted to ten millions, were deducted from the net proceeds; and that must be taken in connection with it when you come to ascertain what the net proceeds of this fund for distribution are now, as shown by the Treasury Department. When you come to take out the expense of gathering in and distributing this fund it will be found—and I have made a pretty careful investigation of the matter—that about one-third of the fund has been expended in that way.

Mr. STONE, of Kentucky. Mr. Chairman, in answer to the gentleman from Arkansas, I would say that I do not know what the salaries of these officials would amount to, but when the Government appoints officials to take care of the handling of a particular fund, if it takes one-third of the whole amount turned into the Treasury to pay those salaries, that fund can not in justice be made liable for the salaries of those officials.

Mr. MCRAE. Whether or not that be true, I know as a matter of fact that attorneys and others were employed by the Department, and as I have said, the salaries and expenses of the agents were paid out of the fund, and the reports will show that.

Mr. STONE, of Kentucky. I would say that I have no information in regard to the amount of money paid out, yet we know what the net proceeds of the sales were, and this bill proposes to pay these people the amount that was realized for their cotton as it shall be found by the Court of Claims.

As I have said, I have no objection to a general bill. I consulted the gentleman from Texas [Mr. CULBERSON] during the Forty-ninth and the Fiftieth Congresses after I got to understand this question, in regard to how to get a bill passed allowing all these people to go to the Court of Claims and have the matters all adjusted, because the records of the Department will prevent any man having an unjust or bogus claim from being paid out of that fund. What the amount turned into the Treasury under the captured and abandoned property acts is the records of the Department will show; and the only question that will be before the court is to get proof that a certain individual was the owner of a certain amount of cotton taken.

Mr. HEARD. I understand the gentleman from Kentucky [Mr. STONE] to avow himself to be in favor of the passage of a general law by which all these claims may be adjudicated and paid pro rata?

Mr. STONE, of Kentucky. Yes, sir.

Mr. HEARD. Now, does not my friend consider that the tendency of the passage of individual bills is to militate against the passage of such a general bill?

Mr. STONE, of Kentucky. No, I do not. It does not militate against the payment of the entire amount of these claims in full, because the records of the Treasury Department show how many bales of cotton in each particular case were sold, at what time, how much money was received, and how much was paid into the Treasury.

As I said awhile ago, the only question that can be determined by the court is the identity of the owner of each particular parcel of cotton. That is why I believe that going to the Court of Claims will result to the benefit of the claimants, because the ownership of each particular lot of cotton will thereby be shown clearly and conclusively. The records show how much money was paid into the Treasury from the sales of captured and abandoned property. They show where the property was captured, when it was captured, by whom it was captured, by whom it was sold, and through whose hands it passed, all the way up to the deposit of the money in the Treasury; and the only question that can be adjusted by the Court of Claims is the question of the individuals to whom particular lots of cotton belonged. And I repeat, when the court has ascertained those facts it will be found that the net proceeds from this source in the Treasury will cover every one of these claims in existence.

Mr. OATES. Is my friend from Kentucky aware that while the record does show, in a great number of cases, just what he states, it does not do so in all cases?

Mr. STONE, of Kentucky. It may not do so particularly in all cases, but the records have shown those things so far and unless they do show these facts nobody can collect the money. The records have got to show that a certain lot of cotton was seized under the captured and abandoned property act, in pursuance of that law, that it was taken possession of and sold, and that the proceeds went into the Treasury; otherwise the claimant can not collect the money.

Mr. OATES. While I do not know the facts in this case and while the records may show all that the gentleman claims, I will state that some two or three years ago I called upon the Treasury Department and obtained a statement in such a case as full as they could give it to me, and from that I found that they could not give a complete statement. The records do not show in all cases all the particulars which the gentleman has stated, but they do show affirmatively the amount in respect to several claims.

Mr. STONE, of Kentucky. Well, there is this that can not be disputed, that where the records do not show these facts clearly there can be no collection of money from the Treasury. That is why I am in favor of a general bill to give all these claimants a chance to come in.

Mr. HOOKER. Will the gentleman allow a question?

Mr. STONE, of Kentucky. Certainly.

Mr. HOOKER. Would it be possible by any general bill to make a pro rata distribution of what is known as the captured and abandoned property fund? Would it be at all practicable to do it?

Is it not true that each individual case must rely upon its own merits to show the prominent facts required by the law, that the property was taken from a certain person and sold, and that the proceeds of that particular property were conveyed into the Treasury, and that when the individual is unable to trace his cotton and to show the taking, the sale, and the deposit of the proceeds in the Treasury he is not allowed to have a judgment?

Mr. STONE, of Kentucky. The gentleman's statement is correct. There can be no pro rata distribution.

Mr. HOOKER. So I thought.

Mr. STONE, of Kentucky. Because there is money in the Treasury, put there from the proceeds of the sales of these particular lots of captured and abandoned property. Now, wherever a man can prove ownership he will be able to prove every bale of his cotton taken and the deposit of the proceeds in the Treasury, and the man who can not prove his ownership can never get a cent of that money under any existing law or any law that you can pass unless you give him the money as a charity.

Mr. HEARD. I think the gentleman's acquiescence in the statement of the gentleman from Mississippi [Mr. HOOKER] carries him too far.

Mr. STONE, of Kentucky. No, sir.

Mr. HEARD. I will concede, for the purposes of the argument, that the gentleman is correct as to the steps necessary to be taken to arrive at a judgment; but I hold that after judgment is had, if provision for a pro rata distribution should be made, there is no good reason why it would not be competent to distribute that fund pro rata on judgments having the same standing. And, Mr. Chairman, I think that ought to be done, because otherwise, if there is less money than will be required to pay these judgments——

Mr. STONE, of Kentucky. Right there comes in that "if" which is always getting in the way of things. There is no question about there being money enough to pay the judgments.

Mr. HEARD. If there have been no mistakes in the adjudications made heretofore, if you assume that we have made no mistakes and

can make none in the allowance of individual claims, then of course the fund ought to hold out.

Mr. STONE, of Kentucky. Well, mistakes are common to all mankind——

Mr. HEARD. Yes, but you are assuming that they can not occur in this matter.

Mr. STONE, of Kentucky. Mistakes are common to us all, notwithstanding the perfection of the gentleman from Missouri. But there is one undisputed fact about this matter. There is no record of a claim of this sort having been paid where the identity of the party owning the cotton had not been established and the proceeds of his property traced to the Treasury Department, and I venture the assertion now that if you pass a general bill allowing everybody who desires to do so to file a claim for a portion of that fund those claims may be filed by the thousands; but when the matter is thoroughly and finally adjudicated it will be found that there is a fund sufficient to reimburse every individual who can establish his ownership of cotton that was sold and the proceeds turned into the Treasury. The fund will be found large enough to reimburse all claimants who can establish their claims, to the full extent of the net proceeds of the amount of property sold.

That being the case, Mr. Chairman, there can be no pro rata distribution, because there is money enough in the fund. It was put there out of the proceeds of these sales, there has been none of it used for any other purpose, and it is required to be in the Treasury to reimburse every one of these claimants. But that is a consideration with regard to the general bill.

Now what I want to say in conclusion is that this money which this bill proposes to appropriate has been found due to these claimants by the very process I have indicated. Where is the justice of holding back these men who have already been through that court once and requiring them to wait until some persons who have slept upon their rights for twenty-five years can go into court and have an adjudication of their matters to ascertain whether or not all of their money is in that fund or not. There can be no question about the sufficiency of the amount of money there, because that money has not been used for any other purpose. It was put there and held in trust for these people; and the Government has not used it for anything else.

Mr. McRAE. I hope the gentleman will pardon an interruption. I do not desire that this broad statement of the gentleman as to the sufficiency of the fund and the proper use of it by the Government shall go unchallenged. I concede that the gentleman is perfectly sincere and that he believes the statement he makes to be true; he may believe that the records of the Treasury Department are correct and will show all the money received by the agents that the management of this fund was honest. But my investigation of the records shows exactly the reverse. In a Congressional investigation several years ago a great deal of testimony was taken upon the question of collecting and disbursing this fund; and from the reading of that testimony and the examination of a number of cases I am clearly convinced that in some instances claims have been paid twice; that some claims have been paid which ought not to have been paid and many refused that ought to have been paid. Over $8,000,000 was paid for costs, expenses, taxes, attorneys' fees, etc. One-fourth of the fund has been wasted in this way. One witness testified that the fund was "held by F. E. Spinner as special agent, and it was lying there loose, and whoever could rake up a little claim could get it."

It is a fact, which the records of the Treasury Department will show, that while the sales as reported by the special agents under the acts amounted to over $31,000,000 there was actually covered into the Treasury only a little more than $20,000,000, and this was all covered in at one time after one-third of the fund had been paid out by Mr. Spinner as special agent.

I think it proper that this statement should be made in this connection so that the gentleman, whom I know to be fair, may be undeceived and his mind relieved of the impression he seems to have that all the money realized from property seized under the captured and abandoned property acts was turned into the Treasury or can be identified. In some cases there have been two claimants to the proceeds of the same lot of cotton and in some instances, as I have said, claims have been paid twice.

It was easy for the northern speculator, who was loyal to both the South and North as his business might require, to get his claim paid by a friendly official, but in every case where the question of loyalty was raised against Southern sympathizers who had no influence with the Department their claims were denied notwithstanding the seizures may have been and usually were unauthorized in the first instance. Nearly all the property seized in my district was taken after peace had been declared, taken by force from the owners who were present protesting and not "voluntarily absent therefrom," as was required to bring it under the act of July 2, 1864.

Mr. STONE, of Kentucky. The gentleman's statement does not set aside a single assertion that I have made to-day. I have never pretended to say that there was not mismanagement or corruption in regard to that fund or that there was not a misuse of the money arising out of these sales of cotton.

But I say that, as to the fund reported to be in the Treasury Department, the fund arising from the proceeds of cotton sold and turned into the Treasury, there is a sufficient amount to reimburse every person entitled according to the record to any part of the money there. If the money is not there, if there has been a misappropriation of that special fund, it has been by the authority and at the instance of the United States Government or the Treasury Department or some of its officials; and in that case the Government is as much bound for the proceeds of those sales of cotton as if the money were all included in this particular fund.

Mr. McRAE. But the gentleman understands this fund was collected through special agents——

Mr. STONE, of Kentucky. I understand.

Mr. McRAE. The sales were made by them, but the money due from them, as shown by these returns, was not by them paid into the Treasury. It was held by Mr. Spinner, then Treasurer of the United States, as special agent, and remained loose in his hands for a long time; and after he had paid a lot of favored claimants and suffered about $8,000,000 to be wasted he was required to cover the remainder, about $20,000,000, into the Treasury. Now the reports of the special agents show the sales of particular lots of cotton and the net proceeds of the sales as returned to them by the cotton factors; but it does not by any means follow that all of this money was paid into the Treasury. As a matter of fact we know that of this whole there was only about $20,000,000 covered in, though the sales aggregated $31,000,000. I might add that about one-half of the $20,000,000 has since been paid out. There is now only about $10,000,000 of the fund left.

Mr. STONE, of Kentucxy. That is simply a reiteration of what the gentleman has already said. The Government of the United States authorized its agents to collect this property, to sell it and put the proceeds into the Treasury. If while it was left there to the credit of an individual it was misappropriated, the Government is liable. The liability of the Government is not destroyed because any part of the fund may have been improperly used by a dishonest official. I do not say that such was the case.

Mr. HOPKINS. But the gentleman proposes to reimburse these parties from this trust fund while other parties are left to recover their money, if they can, out of any moneys in the Treasury.

Mr. STONE, of Kentucky. This bill provides that payment shall be made out of the Treasury.

Mr. HOPKINS. But out of this trust fund.

Mr. STONE, of Kentucky. And the trust fund has been covered into the Treasury by act of Congress.

Mr. HOPKINS. But does the gentleman say that this bill does not contemplate that these parties shall be paid out of the trust fund now in the Treasury?

Mr. STONE, of Kentucky. I am willing to have it provided that payment be made out of the Treasury.

Mr. HOPKINS. Does not the gentleman know that the bill contemplates payment out of this trust fund?

Mr. McRAE. If the gentleman will strike out that provision of the bill which seeks to diminish the trust fund, I would perhaps have no objection to the bill, but I am opposed to interfering with or to paying anything out of that fund, in which many of my constituents are interested, until they have an opportunity to be heard and to share in it. I shall do what I can to protect it until the Government will do justice to all of the owners of this money.

Mr. STONE, of Kentucky. The bill provides that this money shall be paid out of any money in the Treasury; it reads exactly that way.

Mr. McRAE. I have read it.

Mr. STONE, of Kentucky. I move that the bill be laid aside to be reported favorably to the House.

The CHAIRMAN. That is the pending motion. The gentleman from Kentucky has thirty-five minutes of his time remaining. Does he reserve it? General debate can not be cut off except by motion.

Mr. STONE, of Kentucky. I yield five minutes to the gentleman from Tennessee [Mr. HOUK].

Mr. KERR, of Iowa. I desire to know whether some gentlemen who are opposed to this bill can not be heard?

Mr. HOUK. Gentlemen opposed to it have been heard three-fourths of the time this afternoon.

The CHAIRMAN. The gentleman from Tennessee [Mr. HOUK] has the floor and will proceed.

Mr. HOUK. Mr. Chairman, since I have had a seat on this floor I have often heard opposition to the payment of claims on account of the disloyalty of the claimants; and I must confess that oftentimes I have sympathized with the opposition based on that ground. But this is the first time I have ever heard any argument such as the two deliberate, cold-blooded arguments made by the gentleman from Texas and the gentleman from Alabama against paying a claim because, forsooth, the claimants are loyal! If those speeches meant anything they meant opposition to this bill because the claimants happened not to have been disloyal during the war.

Mr. CULBERSON, of Texas. Will the gentleman allow me a moment?

Mr. HOUK. Certainly.

Mr. CULBERSON, of Texas. You entirely misconstrue my position on this question.

Mr. HOUK. Well, I certainly do not wish to misrepresent the gentleman's position. Perhaps the misapprehension is due to my obtuseness; but that is my understanding of it.

Mr. CULBERSON, of Texas. Well, the gentleman will settle that for himself, of course. [Laughter.]

Mr. HOUK. But the argument of both gentlemen is to the effect that the disloyal claimant was excluded, and this was paying a loyal man and leaving the disloyal unpaid, contrary to the decision of the Supreme Court. Now I wish to say to the committee and to both gentlemen that if I maintain my present views on that subject I shall vote for the general bill——

Mr. OATES. Let me interrupt the gentleman to say that what I stated was that I had charge of a bill in a former Congress in favor of a gentleman who proved abundance of loyalty and the claim was heard before Congress. But this House, after discussing it on two different days, decided practically and specifically that they would not pay it until all of these claimants were paid. And I think all ought to be paid. What I was saying then was——

Mr. HOUK. I am sorry that I can not yield to the gentleman longer, but my time is quite short. The gentleman's position only strengthens what I first stated; he introduces a bill for the payment of a man and when he has succeeded in proving his loyalty deserts him.

Mr. OATES. I will allow my position to stand as I stated it in the RECORD without change.

Mr. HOUK. I have no fault to find with the gentleman.

Mr. OATES. And if you can make what you said harmonize with it, that is a matter for yourself.

Mr. HOUK. I do not wish, Mr. Chairman, to misrepresent the gentleman or any other man.

But I wished to say something about this claim. The gentleman asks, "How do you arrive at the amount due the claimants?" If the gentleman had read the report he would find that identical case was before the Court of Claims in the case of Cain *vs.* The United States. There the court, with all the papers before it, with all of the facts at hand, with the books of the Treasury Department accessible, and with all of the details to enable them to make a mathematical calculation, found what each man's share in the partnership was entitled to, and Cain, through this decision of the Court of Claims, before the statute of limitations had begun to operate, was awarded and paid his claim, too, amounting to something over $8,000, and the amount mentioned in this bill was specifically adjudicated and declared by the Court of Claims as belonging to the other partners. That is to say, a legal right existed to it; but in their cases, they not being parties to the suit, no judgment was rendered, of course.

[Here the hammer fell.]

Mr. STONE, of Kentucky. I yield five minutes to the gentleman from Wisconsin [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, it has been urged against this bill as a strong reason why it should not pass that special legislation of this kind ought not to be adopted; but that we ought to pass the general bill which has been introduced by the Committee on the Judiciary. Now, sir, that kind of a bill has been brought before Congress for a great many sessions and has never been acted upon, and probably never will be. The bill provides that the $10,000,000 now in the Treasury shall be divided and set apart and paid over to all persons, without regard to the question of their loyalty, who are entitled to receive any portion of it.

Now, I think the courts would sustain that kind of a bill. I think the courts have said that, as to this captured and abandoned property which was seized by the Treasury agents, sold, and the proceeds turned into the Treasury, disloyal persons might participate in it as well as loyal. But no bill has ever passed Congress to that effect. The act itself, providing for the collection of abandoned property, the sale of the same, and the placing of the funds arising from such sale in the Treasury, expressly provides:

> And on proof to the satisfaction of said court of his ownership of said property, or his right to the proceeds thereof, and that he has never given aid or comfort to the present rebellion, etc.

So that the act itself makes proof of loyalty a prerequisite.

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

Mr. THOMAS. Certainly.

Mr. HEARD. Does not this act antedate the decision of the Supreme Court to which the gentleman refers and which nullified that act in this regard?

Mr. THOMAS. I am not disputing that; but I am simply saying that Congress has never passed an act which distributes the proceeds of this captured and abandoned property to loyal and disloyal citizens alike.

Mr. HEARD. No; but the gentleman does not controvert the fact that the Supreme Court held, in passing upon the act of Congress before it, that that qualification was inoperative?

Mr. THOMAS. I concede that; but the act expired by limitation.

Mr. HEARD. Yes; but the effect of the Supreme Court decision has not expired.

Mr. THOMAS. But no man can bring suit to recover the proceeds arising from this property.

Now, while cases have come before Congress where the parties are loyal and where there is no question about it, they ought not to be held in waiting, knocking at the doors of Congress session after session and waiting for a general bill by which all may be paid who have lost cotton. I do not say I would oppose a bill of that kind; but I think it is within the knowledge of every man who has had much experience in Congress that no such bill will ever pass. And why do gentlemen now ask us to wait and lay this bill aside, when the evidence is overwhelming that these parties were loyal?

Mr. HEARD. Will the gentleman yield for an answer?

Mr. THOMAS. The gentleman can answer in his own time.

Mr. HEARD. But the gentleman asks a question and I hope he will allow me to answer it. I wish to say to the gentleman that I will oppose the payment of this or any other bill where Congress seeks to insert a qualification which the Supreme Court says Congress has no right to embody. This money belongs to people whose property was taken and sold and the proceeds went into the Treasury, whether they were loyal or otherwise, and I repeat I am opposed to a policy on the part of Congress which will impose a qualification upon the claimants for this property which the Supreme Court said Congress had no right to impose.

Mr. THOMAS. The gentleman is taking up about all of my time.

Mr. HEARD. No; I am simply answering a question that you yourself asked.

Mr. THOMAS. I simply say this, that in this case, Mr. Chairman, here are loyal men seeking justice and we are asked to postpone these cases until somebody else, other persons who are admitted to have been disloyal, have a chance to come in and divide this fund. Now, sir, I am in favor of an amendment to this bill. I think that it ought to be provided that it shall be paid out of the fund in the Treasury, the $10,000,000 arising from sales of captured and abandoned property. I think, also——

The CHAIRMAN. The time of the gentleman has expired.

Mr. STONE, of Kentucky. I yield five minutes to the gentleman from Mississippi [Mr. HOOKER].

Mr. HOOKER. Mr. Chairman, I desire simply to say a word with reference to what has fallen from the lips of various gentlemen here with regard to a general bill upon this subject. As to whether any general bill can cover it or not, I submit that it would be proper for the Congress of the United States to pass a bill authorizing any citizen of the United States who has a claim against the Government to go into the Court of Claims or into the district and circuit courts of the United States for the purpose of establishing that claim. Such a general bill as that I should favor, a general bill, allowing everybody who has an interest in this captured and abandoned property fund either to go into the Court of Claims or, what would be far better, to authorize him to go into the district court of the United States in the district in which the property was taken and where the fact of the amount and value of it can be readily ascertained by a jury.

It was said by one of the most distinguished jurists of America, long years ago, the gifted Judge Story, of Massachusetts, that, while in the most autocratic and despotic government of the Old World every citizen had a right to go into court and establish his claim against his government, it was left alone to the United States to deny to her citizens any redress, at the time when he spoke, other than a general petition to Congress for relief. And it was because of the folly of that method of relief that the Court of Claims was established, with a qualified jurisdiction invested in it, to hear certain causes and claims.

Judge Story remarked that wherever a citizen had a claim against the Government he ought to have the right to go into the Court of Claims like any other party having a claim, and establish it against the Government as he would establish it against an individual. And it was his opinion on this question, together with others who agreed with him, that led to the establishment of the Court of Claims. Now, sir, I say there is no reason and there can be no reason why every citizen should not have a right to go into the court having jurisdiction over the region of country from which this property was taken and there establish his claim. It will be more just to the Government and more just to the individual, because the court would be in the vicinage of the place where the property was captured and where it was sold and converted into the Treasury.

Now, sir, as I understand the fact, the captured and abandoned property fund consisted mainly of cotton taken in the Confederate States at or about the close of the war or during the war. That cotton was shipped to New York and sold by the firm of Drexel & Co., and the particular proceeds of these particular lots of cotton were converted into the Treasury, as being the cotton of such a person, taken from such a locality, taken for such a purpose on the part of the Government, and carried to New York and sold and converted into the Treasury, amounting, as I believe, to about $34,000,000.

A large portion of that fund, more than half of it, has already been exhausted by specific claims. But, as the gentleman from Kentucky [Mr. STONE] has well remarked, there is no method for getting the specific fund out of the Treasury except by the ascertainment of the

rights of each particular individual who has a claim upon the property; and you might as well say that in the court of chancery in England, where funds are deposited for which there are no known heirs, every heir should be compelled to come in and establish his claim before you would allow any particular claim to be established, as to say that none of these claims against this abandoned and captured property fund should be paid until all claims against it can be ascertained.

Mr. HEARD. In the case in which you speak of in the court of chancery there could be no distribution until every heir was represented.

Mr. HOOKER. Of course every heir would have to be represented; but the cases are not parallel.

Mr. STONE, of Kentucky. I yield five minutes to the gentleman from Illinois [Mr. HOPKINS].

Mr. HOPKINS. Mr. Chairman, I take no issue with the main portion of the remarks made by the distinguished gentleman from Mississippi [Mr. HOOKER]. I believe with him that provision should be made for every citizen who has a legitimate and honest claim against the Government of the United States to go into the courts and enforce that claim, the same as an individual does in the exercise of his private rights, against a fellow-citizen.

But that is not the issue that is presented to the House under this bill. If it were, I should coincide with all of the remarks which have been made by the learned gentleman and vote with him upon this proposition. But here is something entirely distinct and separate from the general proposition which he advocated. Here is a proposition to allow certain gentlemen to take from this trust fund from $12,000 to $20,000 and pay themselves in full for the claim which they have for a loss of property which occurred during the war.

Now, Mr. Chairman, as the gentleman from Arkansas has well said, this claim for abandoned property aggregates something like $31,000,000, but the amount of money that is actually covered into the Treasury aggregates only about $20,000,000; so that in some manner, the details of which are unknown to this House, something like $11,000,000 have been used in converting the property into money and putting it into the Treasury, and if this House permits any single individual, by a private and a separate bill of this character, to have his entire amount paid, the inevitable result will be that some other claimant, whose claim is equally just, will be deprived of every dollar that belongs to him.

Now what reason, I ask you, in common justice, exists why the claimants mentioned in this bill should be paid one hundred cents on the dollar on the claims which they present here and some other person who had property seized in the same manner, under like conditions, and had property sold by the same parties and under the same law, be deprived of any payment whatsoever? The gentleman from Mississippi [Mr. HOOKER] says that this can not be regulated. I differ with him *in toto* upon that proposition.

I maintain, Mr. Chairman, that a bill can be framed in this Congress that will take into consideration every one of these claimants, all of whom, as I understand, are known to the Treasury Department. Then we can take this $20,000,000, or rather the $10,000,000, balance that remains in the Treasury, and divide the money among these claimants pro rata, so that each one will be paid his share of the amount of this trust fund. That is the only fair, the only equitable manner in which it can be done, and it is a little unseemly, as it appears to me, that the gentleman from Kentucky [Mr. STONE] should press this claim to the exclusion of other claimants here who should be paid if any of the claimants for this fund are to be favorably considered.

Mr. STONE, of Kentucky. I now yield five minutes to the gentleman from Ohio [Mr. JOSEPH D. TAYLOR].

Mr. JOSEPH D. TAYLOR. Mr. Chairman, there are on the Private Calendar here more than two thousand cases. Perhaps those at the end are as meritorious as those at the beginning. At the rate we have progressed to-day it will take all the Fridays for eight or ten years to come to reach them, and, of course, very few of these claims will at last be heard.

I have listened to this discussion and have not yet heard a word said against the passage of this bill. More than two hours of time have been employed, I will not say wasted, but consumed in the discussion of questions which do not relate to the proper consideration of the pending bill. Now, if this is to go on, Mr. Chairman, we may just as well say that we will have no more Fridays for the consideration of private bills; that we will make no further attempts to consider bills of this kind and pass them.

All the objection I have seen to this bill, so far as I have heard it discussed and so far as I know, is that it may embrace more money than the proceeds of the cotton sold; and therefore I have sent up and have had read an amendment which I think will remove every possible objection to this bill, if any bill of this kind is to be passed. I will ask for a vote on the amendment which I propose, and which I offer for the purpose of guarding this expenditure. [Cries of "Vote!" "Vote!"] I will first have the amendment read in my time.

The Clerk read as follows:

Provided, That no greater sum shall be paid to these claimants than was paid into the Treasury of the United States as the proceeds of the sale of the cotton for which they ask to be reimbursed.

Mr. JOSEPH D. TAYLOR. I think there is no objection to that.

Mr. STONE, of Kentucky. I have no objection to it, but the amount is found and is stated in the bill. I now yield three minutes to the gentleman from Iowa [Mr. KERR].

Mr. DINGLEY. The gentleman can take the floor in his own right when the time of the gentleman from Kentucky has expired.

Mr. KERR, of Iowa. I shall decline to take the floor at present.

Mr. STONE, of Kentucky. Then I yield five minutes to the gentleman from Louisiana [Mr. BOATNER].

Mr. BOATNER. Mr. Chairman, I understand that the objection urged to the bill by the gentleman from Illinois [Mr. HOPKINS] and some other gentlemen is that, in the allowance of individual claims and appropriations to pay the amount found due them, the fund will be consumed and a great many who should in equity be paid will not get to the Treasury before the fund is exhausted. Therefore, they suggest that this bill should not pass until a general bill can be framed which will allow every person who has a claim to come in at the same time and be paid pro rata out of the fund on deposit in the Treasury.

Now, Mr. Chairman, that argument would be a very strong one if it were not for the suggestion that this bill and each bill of this character limits the amount to be paid to the party named in the bill to the amount that is shown to be due him by the books of the Treasury Department as the net proceeds of his property seized and sold by the Government. If that be true, I would like to know upon what principle of law or equity the proceeds of cotton, the owners of which are shown by the official records, can be prorated among other people whose property may also have been taken, but of the sale of which the Treasury has no account? In other words, in this particular case it has been found that certain cotton of these individuals was condemned and sold and the proceeds paid into the Treasury.

This bill proposes to give them the net proceeds of that particular cotton. That particular cotton was their property, and the proceeds is their property, and there is no constitutional power in this country to take their property and divide it with any one else or to give anybody any part of it. Therefore, Mr. Chairman, I can not perceive why it is that those who are interested in this question should oppose an allowance for the payment of a just claim of this class whenever it is brought forward.

Every consideration of common honesty and common decency requires that this Congress shall discharge the trust which the Supreme Court of the United States said it assumed in the enactment of a law providing for the disposition of the sums turned into the Treasury under the captured and abandoned property act. That money belongs to citizens of the United States. It has been taken from them without any condemnation proceedings whatever. It has never been confiscated, nor has their title to it been divested, either in fact or law.

It has been taken by the armed force of the Government, not for the use of the Government, but, as the Supreme Court has decided, in trust for its owners. Now I say, decency and common honesty require that we should provide a means by which these claimants can come forward and establish their rights to that property and have their rights accorded to them. But that is no reason why an individual who has been fortunate enough to obtain a report from the Committee on Claims and who has established his ownership of any cotton, the proceeds of which are in the Treasury, should not be paid the amount of money that is shown by the records of the Treasury Department to be due him.

Mr. HEARD. Does not the gentleman's plan contemplate requiring the Government to make good the deficit or reduction which has been effected by reason of the expenses paid out of this fund? Otherwise you could pay those who may have their claims in a shape to be presented after the $20,000,000 was exhausted.

Mr. BOATNER. I have always found it a very good plan not to undertake to cross a bridge until you get to it. Whenever we are confronted with the case of a deficit and any person comes forward and is able to show that his cotton was seized and sold and the proceeds paid into the Treasury, and that the money has been paid to some one else, it will be time enough to consider what is the duty and obligation of the Government with respect to that case. Until that situation arises it is not necessary to consider it.

In the particular case now under consideration here is a man who shows that his property was taken from him by officers of the Government and sold and the proceeds of it paid into the Treasury, and now he is here asking nothing but his own, and this Government, occupying as it does the position of a trustee, if it refuses to give him his own places itself with respect to that particular property in an attitude which, if it were a private individual, would be that of an embezzler.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WHEELER, of Alabama. Mr. Chairman, I think we ought to take a practical business view of this subject. All the gentlemen who have spoken have agreed that this is a trust fund, that the money went into the Treasury, and it is generally admitted that parties can only recover from the Treasury the amount that is upon the books to their credit, less the amount of the expenses and losses incurred. Now the gentleman from Illinois admits that there are claims of this character aggregating $31,000,000, and he says that there is $20,000,000 in the Treasury to pay them. He is mistaken about that. There was once

about $20,000,000, but they have whittled that fund down until to-day it is not more than $10,000,000. Therefore, if we pass a general bill to divide this money among those who prove their claims and prove them to be (as they really are, from our investigation) in all respects clothed with as much merit as these other claims, they can get paid but about 33 cents on the dollar or less than that.

Now, will it be doing justice to these other claimants, claimants with no infirmity in their claims, for us to single out particular cases and pay them dollar for dollar while these other claims are held back, many of them having perhaps more merit and much more merit than the claim now before the House?

The CHAIRMAN. The time of the gentleman from Alabama has expired. The gentleman from Kentucky [Mr. STONE] has three minutes left.

Mr. STONE, of Kentucky. I do not care to use the time except to make an appeal to the committee in the same line as that made by the gentleman from Ohio [Mr. JOSEPH D. TAYLOR]. This claim has been discussed for two hours, and there has not been a single solitary word said by anybody in opposition to it or to show why it should not be paid. The discussion has all been upon the question whether it is right to hold this claimant back until other people can come in with their claims. Now there are a great many cases on this Calendar about which there is no controversy, and I appeal to members to vote upon this proposition. We have had as much light as is likely to be thrown upon it if we should talk about it here for a week; therefore let us vote upon it and get rid of it and go on with other business. There is no other claim of this class upon the Calendar that I know of, and I appeal for a vote.

Mr. ROWELL. Mr. Chairman, I desire to say a word in opposition to the passage of the bill upon its merits. I think this bill ought not to pass. The cotton for which an appropriation is sought was owned by speculative dealers in that article, who, in violation of law, sent their money through the Confederate lines to be invested in cotton.

Mr. HOUK. That is not correct. They were living inside of the Confederate lines at the time, and every man here ought to know it.

Mr. ROWELL. Permit me to go on. I say that this money was sent into the Confederacy for speculative investment in cotton in violation of law. There could be no other object than to obtain cotton and then to run the blockade with it and so to make money, because there was there at that time no lawful way of getting cotton to a market except by running the blockade in violation of the law. Now, everybody knows that cotton was the basis of the credit of the Confederate States. Everybody knows that it was made subject to taxation, and the record in this case shows that while this cotton was held in store it did pay taxes by contribution to the support of the enemies of the United States.

This cotton was purchased and dealt in while war was flagrant. It was seized as the result of many hard-fought battles and at a time when the war was at its very height and as the result of the advance of the Union Army, and it was held and dealt in in violation of the rights of the United States and in violation of international law. It was invested in for the purpose of violating the law and the rights of the United States. The Government captured it, sold it, covered the money into the Treasury, and, unless Congress comes to the aid of these parties, there is no lawful way of taking that money out of the Treasury. The question is whether we ought now to furnish a lawful way to take that money——

Mr. STONE, of Kentucky. Will the gentleman allow me a question?

Mr. ROWELL. Certainly.

Mr. STONE, of Kentucky. Is the gentleman aware of the fact that one party who had cotton in this very lot brought suit against the Government, obtained judgment, and received his money?

Mr. ROWELL. I am perfectly aware of that fact.

Mr. STONE, of Kentucky. Then how is it that another party situated in exactly the same way should not receive his money?

Mr. ROWELL. If the "other party" had proceeded at the same time he would undoubtedly, under the law, have obtained a judgment in the Court of Claims. That party can not now get a judgment. I think the law under which the party referred to by the gentleman was enabled to get a judgment was a mistake; and I am therefore opposed to making a new law to authorize a judgment in this case, unless the time shall come when it is the purpose of the United States to pay all the cotton claims resulting from seizures.

This $10,000,000 now in the Treasury is not all the proceeds of the sales of private cotton. A large amount of cotton belonging to the government of the Confederate States and to the several States composing the Confederacy was seized and sold and the proceeds of that cotton covered into the United States Treasury, making a part of the $10,000,000 now remaining there. I agree with the gentleman from Texas that until the United States shall adopt a policy of ascertaining all these private claims and the amount of money to meet them there ought not to be a dollar paid out of the Treasury for captured cotton.

I now yield five minutes to the gentleman from New Jersey [Mr. BUCHANAN].

Mr. BUCHANAN, of New Jersey. Mr. Chairman, whilst this debate has been running on, I have been reading the report in the case referred to—the case in the fourth volume of the Court of Claims Reports—and I discover this state of facts as set out there in the opinion of Judge Milligan, who rendered the opinion of the court. It appears that early in 1862 this Mr. Rhea, who was then a resident of East Tennessee, sent this money down into Georgia by the hands of a gentleman named Ansley to be invested, together with some money of his son-in-law, in the purchase of cotton; and a part of the contract was: "I am to have it invested on the best terms possible and the expenses attending the same to be paid by each in proportion to our respective sums invested."

The judge goes on to say that the record further discloses the fact that the amount of money invested in cotton by Ansley in the name of Rhea was $12,509.80. Of this sum, as shown by Rhea's receipt, $5,010 belonged to the claimant. That would leave the original investment by Mr. Rhea $7,499.80. The opinion quotes the testimony of a gentleman named Lowry, a witness in the case:

I had on storage in my house, to the credit of Samuel Rhea, 251 bales of cotton. I received it in the months of October and November, 1862; 25 bales of this cotton was sold in November, 1863, to pay taxes, storage, etc.; burnt in the warehouse during the shelling by General Sherman's forces, 43 bales; shipped to Gains & Co., Macon, Ga., 125 bales, to be stored to the credit of Samuel Rhea.

That leaves 58 bales. For Mr. Rhea's interest in those 58 bales this bill appropriates the sum of $12,825.61. His original investment in those 58 bales was $1,733.04. We are to pay him by this bill $12,825, an advance of 741½ per cent. on the cost of his investment.

I give these figures as justifying the statement made by the gentleman from Illinois [Mr. ROWELL] that this cotton was in all probability purchased for speculative purposes.

Mr. LANHAM. Will the gentleman permit a question?

Mr. BUCHANAN, of New Jersey. Certainly.

Mr. LANHAM. The gentleman has just read a decision of the Court of Claims. I want to ask who were the parties before the court in that case? Were the beneficiaries of this bill directly before the court?

Mr. BUCHANAN, of New Jersey. Mr. Fain, the son-in-law of Mr. Rhea, was the party suing, and he sued for the whole money, claiming that the intermingling of the funds of Mr. Rhea, his father-in-law, and of himself in the hands of Mr. Ansley created a partnership. The subject-matter was before the court in that case; but neither Mr. Rhea nor his legal representatives were parties to the record. I have been reading, however, from the decision quoted as authority by the gentleman from Kentucky [Mr. STONE].

Mr. LANHAM. Is not that a mere collateral proceeding so far as the beneficiaries of this bill are concerned?

Mr. BUCHANAN, of New Jersey. But the subject-matter was inquired into, and the testimony of the witnesses covered the facts of the case. This is the case which the gentleman from Kentucky referred to when he said, "These parties have been through the courts and have established the facts." Now, if this authority is of no consequence when cited by me, it must be equally valueless in support of the argument of the gentleman from Kentucky.

Mr. HOUK. Will the gentleman allow me——

[Here the hammer fell.]

Mr. ROWELL. I yield five minutes to the gentleman from Iowa [Mr. KERR].

Mr. KERR, of Iowa. Mr. Chairman, in regard to all these cotton claims there is one important fact which is entirely lost sight of, and that is the expense incurred by the Government in saving this cotton. These Treasury agents who took this cotton went to the seat of war; they used the armed force of the Government in order to save it. This involved a large expenditure on the part of the Government. But for this expense the cotton would all have been lost and these claimants would not have been here. Now it seems to me that when we are considering these matters we ought to consider the interests of the Government first of all, and I suggest that to save this cotton cost the Government more than the value of it.

Now, the gentleman from Alabama cites the Supreme Court as having declared that disloyal claimants stand on the same basis with reference to this fund as loyal claimants. I do not think the Supreme Court of the United States has ever determined that where the Government of the United States, through the Army, made a practical confiscation and applied to its own use property belonging to Confederates in arms against the Government, that property could afterward be taken from the Government. I understand that it has been held that this ought not to be done.

I believe, Mr. Chairman, that the Government of the United States, having applied the property of a Confederate to its own use in the time of war, ought to be maintained in its right to the possession of that property; and if that Confederate can not now secure the return of the property, except by affirmative action on the part of the Government giving to him a right to sue in the courts, he ought not to have it and it is not proper that the Congress of the United States should undertake to confer on him the right to that action. On that account I am opposed wholly to this and all similar claims.

Now, as to the question of these men investing their money: The case is such that it shows on its face, as said by the gentleman from Illinois [Mr. ROWELL], that it was a disloyal act and that it is an act

to which the Government should give no encouragement. Besides that, the very nature of the case is such that the Government can not disprove the statement made by the party himself, because, if a man employs a secret agent to accomplish a thing which is in violation of the law and makes that agent's testimony available testimony, there is no possible way of disproving it; because the matter is locked up in his own breast and, having been disloyal and having the matter in his own breast, what he says is necessarily conclusive, because you can not controvert it by other testimony. I do not think that Congress ought to further any such claims, and for that reason I oppose them.

Mr. ROWELL. Now, Mr. Chairman, I yield to the gentleman from Tennessee [Mr. HOUK] five minutes.

Mr. HOUK. I simply wanted, Mr. Chairman, to correct what I consider a misstatement or misapprehension both of the law and the facts as stated by my friend from Illinois [Mr. ROWELL]. He assumes that Mr. Rhea sent his money through the Confederate lines and into the Confederate territory for the purpose of investment, whereas the fact is, as that gentleman ought to know, that Eastern Tennessee in 1862 was not only inside of the Confederate lines, but was occupied by Confederate soldiers. And Mr. Rhea did what every man who has any familiarity with the condition of things in the South during the war knows was done generally by men of means who were loyal to the Union; that is, he followed the general policy which had been adopted on the part of the Union people of investing his money in that class of property which he knew would be valuable when the Union troops succeeded in reaching it.

You can not find a Union man in all that country who had faith in the success of the Federal Government and who longed to see the days when the Yankees with the Stars and Stripes would banish the Confederacy, not a man amongst them throughout the whole country, who did not seek to invest his money in something he believed would be valuable when the Union people got there. Hence that people almost universally—I mean the Union people who had means—invested their money in cotton and tobacco and hid and held it, resorting to every possible means of keeping it from the Confederates until they could get the protection of the Federal Government.

I appeal to my friends here if that is not the history of that country during the war where they were Union men. Hence the position of the gentleman does not apply to this case at all. The condition of things to which he refers has no relevancy to it. It was not an investment made by a man sending his money through the lines. It was an investment made within the Confederate lines. The Government was unable to give protection at the time. The Union people sought the best way available to them to protect and preserve their earnings; and men of sense and ordinary intelligence knew that cotton and tobacco would be worth money when the Federals came. Hence they were in the habit of investing in it.

The claim of Mr. Dickerson, of Knoxville, Tenn., for which the gentleman voted recently, is exactly a claim of the same character. He invested his money in cotton on the same principle, and it was taken possession of by the Federal forces when they got to Knoxville, and this House and the Senate and the President of the United States confirmed his right to some $96,000, which has been paid to him for cotton bought under precisely the same circumstances.

Mr. STONE, of Kentucky. Will the gentleman yield to me for a question?

Mr. HOUK. Certainly.

Mr. STONE, of Kentucky. Is it not true that at the last session of Congress we passed a bill exactly similar to this and paid the money found due?

Mr. HOUK. Yes, sir; in the case of Hyde, Kennedy & Cain, and I saw one of the drafts when I went to speak at Maryville in the last campaign. One of these men had a $3,300 draft and said it was to pay him for cotton lost at that time.

A MEMBER. Did he help to elect you?

Mr. HOUK. Yes; he was a good Democrat, but voted for me on that account. [Laughter.]

I do not wish this question to be confused by a statement which has no reality in fact or reason.

Mr. ROWELL. Mr. Chairman, in response to what the gentleman from Tennessee says that the citizens of East Tennessee had invested money in tobacco and cotton, to keep it out of the hands of the Confederates, I wish to say simply that this East Tennesseean referred to in this bill did not seem to be a man of that character, because he sent his money down into Georgia and invested it in cotton, and as fast as the Union troops approached, he hurried it farther south in order to keep it in the custody of the Confederate army.

Mr. HOUK. Where is the proof of that?

Mr. ROWELL. In this opinion that was read. Now East Tennessee was undoubtedly loyal. I understand the fact to be that the Confederates had to send an army up there in order to keep the people disloyal and that usually that part of the country was regarded as being within the Union lines; but this cotton was placed under the jurisdiction of Confederate authority and hurried farther south whenever the Union army approached, in order that it might be protected, not by the loyal army of the Union, but by the Confederate army; and I repeat it was a speculative investment, an investment in cotton for the purpose of running the blockade, placed where it might contribute to the enemies of the country; and until we adopt the policy of paying for all that cotton I am opposing this bill and every one like it. I yield the floor, Mr. Chairman.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Ohio.

Mr. HEARD. I ask that that amendment be reported.

The CHAIRMAN. The amendment will be reported.

The Clerk read as follows:

Amend by adding to the bill the following words:
"*Provided*, That no greater sum shall be paid to these claimants than was paid into the Treasury of the United States as the proceeds of the sale of the cotton for which they ask to be reimbursed."

The amendment was agreed to.

Mr. BUCHANAN, of New Jersey. I offer the following amendment:

The Clerk read as follows:

Amend by striking out in lines 4 and 5 the words "any money in the Treasury not otherwise appropriated" and inserting in lieu thereof the following:
"The fund arising from the sale of captured and abandoned property and now in the Treasury."

Mr. BUCHANAN, of New Jersey. I understand the gentleman from Kentucky [Mr. STONE] to say that he has no objection to that amendment, and I offer it, notwithstanding the other amendment has been adopted, for the reason that if this is adopted it will be charged by the Treasury officials against that particular fund. I understand that there is no actual trust fund actually set apart, and yet it is always in the Congressional mind, if not in the Executive mind, that there is really a certain amount of money there subject to these purposes, and it is for the purpose of making that clear and distinct that I offer this amendment.

Mr. STONE, of Kentucky. I want to say that I have no objection to the amendment, if the gentleman in charge of the bill has no objection to it.

Mr. CULBERSON, of Texas. Let the amendment be read again.

The CHAIRMAN. The amendment will be again reported by the Clerk.

The amendment was again reported.

Mr. CULBERSON, of Texas. Mr. Chairman, I think that amendment is contradictory to the first part of the bill.

Mr. MCRAE. It amends the first part.

Mr. BUCHANAN, of New Jersey. That is the first part, and when amended it will read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of the fund arising from the sale of captured and abandoned property, and now in the Treasury, etc.

Mr. CULBERSON, of Texas. I would like to submit to the gentleman from New Jersey this proposition, that the bill be amended to provide that if there is to be a payment made at all it should be made out of the proceeds arising from the sale of this identical cotton, which proceeds are now in the Treasury.

Mr. BUCHANAN, of New Jersey. There has been an amendment adopted saying that any payment made shall not be larger than the amount that was covered into the Treasury as the proceeds of the sale of this particular cotton.

The CHAIRMAN. The Clerk will report the section as it will read if the amendment offered by the gentleman from New Jersey [Mr. BUCHANAN] is adopted.

The Clerk read as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of the fund arising from the sale of captured and abandoned property, and now in the Treasury, the respective sums of money as hereinafter provided.

Mr. HOUK. Mr. Chairman, if this bill is to be killed, let it be killed openly, fairly, and squarely.

Mr. CANNON. Well, I am ready for it.

Mr. HEARD. So am I.

Mr. HOUK. Let us not resort to legislative legerdemain. As I understand it, this money has been covered into the Treasury. But there is no such thing as a fund there distinctively emanating from captured and abandoned property. The only way by which it can be reached and justice done claimants is to pay them, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount which their property brought at the sale and the proceeds of which were turned into the Treasury. Now, let us have a fair vote. Let us not kill this bill by subterfuge or by indirection. Let us either decide that we will not pay these claimants at all or let us so shape the law that they may be able to know where the money is to be found and so that there will be a means of meeting the demands of this bill.

I despise pretense of every kind and character, and especially in dealing with claims against the Government; because if any class of citizens in the United States have been grievously wronged by the Government it is the loyal men of the South, whose property was used in one way and another by the Government for the benefit of the Government, whose property was sold, and the proceeds of which property lie in the Treasury to-day. I say, if any class of men have been outrageously misused, it is the Union men of the South who are claimants against this Government. Let us either vote that they shall not be

paid or let us pay them. Let us not kill their claims by indirect means. Let us come up like men and either say that we will or we will not.

Mr. BUCHANAN, of New Jersey. Mr. Chairman, I disclaim any intention of defeating this bill by indirection. If the bill can not survive amendments of this character, it ought to be killed outright.

Mr. HOUK. But this provides for payment out of a specific fund when no specific fund exists.

Mr. BUCHANAN, of New Jersey. I deny that there is any legislative legerdemain in reference to this amendment. It is predicated upon assertions which have been made often upon this floor and repeated to-day a dozen times.

Mr. HOPKINS. By the friends of the bill, too.

Mr. BUCHANAN, of New Jersey. Repeated by the friends of the bill, the statement that there is a fund in the Treasury set apart for the payment of these claims. Is that true or is it not?

Mr. DINGLEY. It was stated to be a trust fund.

Mr. BUCHANAN, of New Jersey. The fact is, Mr. Chairman, that if the amendment I have drawn makes the provision of the bill nugatary I will change it so that it will not have that effect, because that is not my purpose. My only purpose is to have it designate the money as money going into the Treasury as the proceeds of the cotton claimed to have been taken.

Mr. CASWELL. Will the gentleman allow me to ask him a question? If this captured and abandoned property fund has been covered into the Treasury, how can the Treasurer designate it when he comes to pay off the amount carried in this bill? How can he designate that money that is put there, and from what source it was derived, whether from captured and abandoned property or from internal revenue? It would have to be paid out of the common fund of the Treasury, and it would be utterly impossible to designate that it was money paid out of funds formerly received from captured and abandoned property which had been put in the general fund.

Mr. BUCHANAN, of New Jersey. May I ask my friend a question?

Mr. CASWELL. I can conceive that the objects and purposes of the amendment are strictly sound, but I can not see how it can be executed by the Treasurer.

Mr. BUCHANAN, of New Jersey. Let me ask my friend a question in return. Is there any system of bookkeeping or any item on the Treasury books which shows that there is in the Treasury money which has been derived from the sale of this cotton?

Mr. CASWELL. I understand there is not.

Mr. DUNNELL and others. There is.

Mr. CASWELL. There were books originally classifying and holding separate these moneys derived from captured and abandoned property; but by legislation subsequently had this money was all covered into the common fund of the Treasury.

Mr. BUCHANAN, of New Jersey. Then all this talk about there being a fund there and of money held in trust is simply a figure of speech?

Mr. CASWELL. Well, as a matter of equity there is money there that belongs to these claimants, or, in other words, these claimants have an equitable claim against the Government, which is simply barred by the statute of limitations. While there is money that originally belonged to claimants, there is no law by which it can be reclaimed, by reason of the bar of the statute.

Mr. BUCHANAN, of New Jersey. My only purpose is to have this money charged in such a way on the books of the Treasury that it shall show that it is charged against the proceeds of that particular cotton.

Mr. CASWELL. I understand that that is the gentleman's object, but I do not see how it can be carried out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The vote was taken; and the Chairman announced that the "noes" seemed to have it.

Mr. HOPKINS. Divison, Mr. Chairman.

The committee divided; and there were—ayes, 46; noes, 25.

So the amendment was agreed to.

The CHAIRMAN. The question now is upon laying the bill aside with a favorable recommendation.

Mr. HOPKINS. Mr. Chairman, I move to recommit the bill to the Committee on War Claims with instructions that it report a general bill providing for the adjudication by the Court of Claims of this class of claims and for the distribution of the fund under the judgments thus rendered. I will ask the committee to wait a moment until the motion can be properly prepared.

After a pause,

Mr. HEARD. I now send up the motion.

The CHAIRMAN. The Chair will inquire whether this is the motion of the gentleman from Illinois [Mr. HOPKINS] or the gentleman from Missouri [Mr. HEARD].

Mr. HOPKINS. It is the motion of the gentleman from Missouri.

The Clerk read as follows:

I move to report this bill back to the House with the recommendation to recommit the bill to the Committee on War Claims with the instruction that it report a general bill providing for the adjudication by the Court of Claims of the class of claims to which this belongs, and the proper distribution upon the judgments thus rendered thereon of the fund received from the sale of captured and abandoned property.

Mr. DINGLEY. Mr. Chairman, I make the point of order on the instructions that are given there. It is not competent for the committee or the House itself, during the consideration of a private bill, to recommit the bill with instructions to report a general bill.

The CHAIRMAN. The Chair is of opinion that the point of order is well taken.

Mr. ENLOE. I was going to suggest that the instruction be amended so that it will read to take up the bill reported from the Committee on the Judiciary now on the Calendar.

The CHAIRMAN. The motion is subject to the point of order made by the gentleman from Maine.

Mr. OATES. Mr. Chairman, the point of order——

The CHAIRMAN. For what purpose does the gentleman from Alabama rise?

Mr. OATES. For the purpose of calling the attention of the Chair to the fact that the point of order made by the gentleman from Maine [Mr. DINGLEY] does not lie against the proposition as a whole, but only against the instruction.

Mr. DINGLEY. That is all.

Mr. OATES. And it is in order to report the bill to the House with the recommendation that it be recommitted to the Committee on War Claims.

Mr. HEARD. Do I understand that the point of order lies only against the instruction?

Mr. DINGLEY. That is all.

Mr. HEARD. Then I move to strike out that part of the motion containing the instruction.

Mr. DINGLEY. That is out already.

Mr. HEARD. Then I insist upon my motion to recommit the bill.

Mr. ENLOE. A parliamentary inquiry.

The CHAIRMAN. The motion now is simply to recommit the bill to the Committee on War Claims.

Mr. ENLOE. A parliamentary inquiry.

Mr. HOUK. I make a point of order as to the motion to recommit.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HOUK. My point of order is that it is outside the province of the Committee of the Whole to recommit a bill, because it defeats the very object of the Committee of the Whole. The object of the committee is to consider a bill and to report either in favor of its rejection or passage. It is for the House to decide when it goes back there whether the bill shall be recommitted. It never was referred to this committee for instructions on a question of recommittal, but it was referred to this committee for the purpose of consideration and determination either in favor of its passage or against its passage.

The CHAIRMAN. The committee has a perfect right to recommend to the House that the bill be recommitted. The House will then act its own pleasure in the matter.

Mr. HOUK. That might be true if the Committee of the Whole consisted of the same number of members as the House.

The CHAIRMAN. That is the rule.

Mr. THOMAS. Is the motion debatable?

The CHAIRMAN. Yes. The motion now pending is the motion to recommit.

Mr. THOMAS. May I be heard upon that for a moment?

Mr. HOUK. Mr. Chairman, I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman from Tennessee will state his parliamentary inquiry.

Mr. HOUK. I simply desire to ask upon what principle of parliamentary law or under what rule the motion to recommit with instructions may be divided and part of it ruled out of order and part of it held to be in order?

The CHAIRMAN. The motion was amended by the gentleman who made it.

Mr. HOUK. But the Chair ruled on the whole motion. The Chair ruled part of the motion as heard out of order and then permitted the gentleman to divide it.

The CHAIRMAN. The gentleman from Missouri [Mr. HEARD] really made a new motion in substance, which was that this bill be reported back to the House with the recommendation that it be recommitted to the Committee on War Claims, and that is the question now before the committee.

Mr. HOUK. If he made a new motion he sat in his chair while he was making it. [Laughter.]

Mr. THOMAS. Mr. Chairman, I desire to say that the Committee on the Judiciary have already framed and introduced into the House a bill which is on the Calendar, and which, if passed, will accomplish the object now sought by the recommittal of this bill. It must be apparent to everybody that to recommit this bill with the object of introducing a general bill will certainly be of no possible avail, because that general bill can not be reached at this session. This is simply an indirect way of killing this bill, and I certainly hope that the motion will not be adopted.

Mr. HEARD. Mr. Chairman, I only wish to suggest that it is not

my purpose to attempt indirectly the death of this bill. I am in favor of killing it, however, and my vote will be so recorded when I have an opportunity, but I hold that it is perfectly competent for this Committee of the Whole, having considered this case, to make such recommendations as are proper to be made under the rules with regard to this bill, and I hold that this is a proper motion for the committee now to adopt, if in its judgment it ought to do so.

Mr. THOMAS. What is the object? What do you want to recommit for?

Mr. HEARD. I want the committee to have the benefit of the suggestions made here to-day, if they will need them, which show that the sentiment of this House is in favor of this question being dealt with by a general bill.

Mr. THOMAS. Is there not a bill on the Calendar reported from the Judiciary Committee which fits the case exactly?

Mr. HEARD. Then it is a proper thing to get this out of the way until that general bill can be reached and passed if the House chooses to pass it.

Mr. THOMAS. That bill proposes to divide up this $10,000,000 among all these claimants, loyal and disloyal.

Mr. HEARD. I insist upon my motion, Mr. Chairman.

Mr. STONE, of Kentucky. I make the point of order that the motion of the gentleman from Missouri is out of order because the Committee of the Whole has no power to instruct the House.

Mr. HEARD. We do not propose to do that.

Mr. STONE, of Kentucky. When we had under consideration the bill known as the omnibus bill this same question arose. The Committee of the Whole undertook to instruct the House to recommit the bill, but when the bill was considered in the House the Speaker decided that the Committee of the Whole had no such power.

The CHAIRMAN. This is not a parallel case. This is simply a motion that the Committee of the Whole recommend to the House that the bill be recommitted.

Mr. HEARD. That is it.

The CHAIRMAN. The question is on the motion of the gentleman from Missouri [Mr. HEARD].

The question was taken; and there were—ayes 48, noes 27.

Mr. DUNNELL. No quorum voting.

The CHAIRMAN. Does the gentleman raise the point that there is no quorum present?

Mr. DUNNELL. Yes.

Mr. KERR, of Iowa. I hope the gentleman will withdraw his point of order.

The CHAIRMAN. The Chair will ascertain whether there is a quorum present. [After counting.] There are 110 members present—more than a quorum. The ayes have it and the motion prevails.

MATILDA COOK.

The next business on the Private Calendar was the bill (H. R. 2885) for the relief of Matilda Cook.

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 Matilda Cook, of Caldwell County, Kentucky, out of any money in the Treasury not otherwise appropriated, the sum of $150, being for supplies furnished the United States troops during the late war.

Mr. STONE, of Kentucky. Let the report be read.

The report (by Mr. STONE, of Kentucky) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 2885) for the relief of Matilda Cook, report as follows:

The claim is for a mule taken from the claimant in Caldwell County, Kentucky, by the Army of the United States during the late war. Claim stated at $150.

The claim was filed in the office of the Quartermaster General November 15, 1865, and on April 21, 1884, disallowed for the reason that the Quartermaster General was not satisfied as to the loyalty of the claimant.

The agent who investigated the claim reported that the mule was taken from claimant by Captain Mass, of the Army of the United States, for the use of the Army, and was worth $150. The loyalty of the claimant is estalished by the best citizens of Princeton, Ky.

Your committee are satisfied as to the loyalty of the claimant and the taking and use of the property by the Army, and report back the bill and recommend its passage.

Mr. STONE, of Kentucky. Mr. Chairman, unless some gentleman desires discussion on this bill, I move that it be laid aside to be reported favorably to the House.

Mr. SPINOLA. We want an explanation of the bill. It is a very important bill. If somebody has lost a mule, we want to know the circumstances.

Mr. STONE, of Kentucky. This mule was taken for the use of the Army, as the report states. I can not give the circumstances in detail.

Mr. CUTCHEON. It was a loyal mule?

Mr. STONE, of Kentucky. It was. [Laughter.]

The bill was laid aside to be reported to the House with a favorable recommendation.

HEIRS OF JAMES A. GREGORY.

The next business on the Private Calendar was the bill (H. R. 2922) for the relief of the heirs of James A. Gregory.

The bill was read, as follows:

Be it enacted, etc., That the sum of $1,500 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid to the heirs of James A. Gregory, deceased, for ten mules taken by the United States troops and used for army purposes, in April, 1863.

Mr. STONE, of Kentucky. I move that the bill be laid aside to be reported favorably to the House.

Mr. HOPKINS. I should like to hear something about the circumstances of this case.

Several MEMBERS. Let the report be read.

The report (by Mr. STONE, of Kentucky) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 2922) for the relief of the heirs of James A. Gregory, report as follows:

That this is a claim for ten mules taken from the claimant by the Army of the United States during the late war. Claim stated at $1,500.

Claimant filed this claim in the office of the Quartermaster General November 7, 1865, for adjudication under the provisions of the act of July 4, 1864. The Quartermaster General rejected the claim for the want of jurisdiction. Claimant resided in the State of Kentucky and the property was taken from his agent in the State of Mississippi.

The proof filed in support of this claim shows that the decedent was a loyal man, and that ten mules, of the value of $1,500, were taken from him by the Army of the United States during the late war.

Your committee therefore report back the bill and recommend its passage with the following amendment:

Strike out the word "heirs" wherever it appears in the bill and insert in lieu thereof the word "estate."

Mr. KERR, of Iowa. I would like to ask the gentleman from Kentucky what proof there is that the man in whose possession these mules were was the agent of this loyal man in Kentucky.

Mr. STONE, of Kentucky. The proof is perfectly clear. Mr. Gregory prior to the war had been trading in mules for many years and shipping them South. Just before the war he shipped these mules South in charge of his agent. The war coming on, the mules were taken and applied to the use of the United States Army.

Mr. ROWELL. The report in this case states that these mules were taken by the Army of the United States, but does not state whether the taking was a mere depredation or whether they were taken by order of the quartermaster.

Mr. STONE, of Kentucky. The proof shows that they were taken for the purposes of the United States Army.

Mr. ROWELL. That ought to have been put in the report.

Mr. CUTCHEON. Does the proof in this case show that the mules were taken by authority of any officer of the United States?

Mr. STONE, of Kentucky. Yes, sir; the proof is as clear as it possibly could be that the mules were taken by authority of officers of the United States Army for army purposes.

Mr. CUTCHEON. Were they receipted for at the time by the Quartermaster General's Department?

Mr. STONE, of Kentucky. I can not say whether there were any receipts or not, but the proof is clear that they were taken by authority of officers of the United States and for the use of the Army.

Mr. GROSVENOR. This bill and the report together would make out a claim of the strongest character if there were just a little more light upon a single point. If the report has been drawn by some member knowing a fact that he has not explicitly stated, I would be very glad if he would state it. The language of the report is that these mules were "taken from the claimant by the Army of the United States during the late war." Is there any fact within the knowledge of the committee as to the character of the taking of these mules—whether they were taken for the use of the Army or whether——

Mr. STONE, of Kentucky. I have stated as emphatically as I could that the proof is perfectly clear that these mules were taken by authority of United States officers and applied to the use of the United States. There is no question about it.

Mr. GROSVENOR. I thought it a decidedly suspicious circumstance that these mules were sent South during the war.

Mr. STONE, of Kentucky. Not during the war.

Several MEMBERS. Before the war.

Mr. GROSVENOR. Well, I think the claim is a good one. I am in favor of just that sort of a claim.

Mr. OATES. I wish to inquire of the gentleman from Kentucky whether the Department decided unfavorably upon the claim because while the man claimed to have been loyal all the time he was inside the Confederacy.

Mr. STONE, of Kentucky. No, sir; he never was inside the Confederacy.

Mr. KILGORE. I would like to supplement the inquiry of the gentleman from Alabama by another. You say [addressing Mr. STONE, of Kentucky] this was a loyal man?

Mr. STONE, of Kentucky. The proof so shows.

Mr. KILGORE. And these mules were down there in the custody of an agent of his?

Mr. STONE, of Kentucky. Yes, sir.

Mr. KILGORE. Was this man himself in the Army vindicating his loyalty?

Mr. STONE, of Kentucky. No, sir.

Mr. KILGORE. Well, he was speculating in mules in both armies, was he not?

Mr. STONE, of Kentucky. No, sir; he was not speculating in either army. The mules were sent South before the war commenced.

Mr. KILGORE. Could he not have sold them to the Confederacy and obtained Confederate money for them?

Mr. STONE, of Kentucky. I do not know but he might. I have no doubt the gentleman from his experience in the Confederacy knows that it was pretty easy to sell anything at that time for a good deal of money. I remember having paid $300 for a pair of boots.

Mr. KILGORE. My experience was similar. But if this man was loyal to the Government he ought to have been willing to give it these mules, as he did not give his own services.

The question being taken on the amendment reported by the committee to strike out "heirs" where it occurs in the bill and insert "estate," it was agreed to.

The bill as amended was laid aside to be reported to the House with a favorable recommendation.

ESTATE OF FRANCIS M. MURRAY.

The next business on the Private Calendar was the bill (H. R. 2951) for the relief of the estate of Francis M. Murray, deceased.

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 the legal representatives of Francis M. Murray, deceased, late of McCracken County, Kentucky, out of any money in the Treasury not otherwise appropriated, the sum of $900, for 3,000 bushels of stone-coal taken by and delivered to the steamboats White Cloud and Silver Moon, in the year 1863, at Paducah, in the State of Kentucky, said boats being at the time in the employment of the Navy Department of the United States.

The report (by Mr. STONE, of Kentucky) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 2951) for the relief of the estate of Francis M. Murray, deceased, report as follows:

That in the latter part of the year 1863 Francis M. Murray, deceased, of McCracken County, Kentucky, was owner of a one-third interest in a barge load of coal lying at the wharf in the city of Paducah, Ky., consisting of about 4,000 bushels, all of which was taken in the night-time by one or more of the steamers Princess No. 2, White Cloud, and Empress, which were at the time in Government employ. No receipt or voucher appears to have been given for the same. The Government had coal in the vicinity, and it appears probable from the evidence that the coal in question was taken through a mistake of the officers in charge of the boats, they supposing it to belong to the Government.

The committee find the amount of coal belonging to said Murray which was taken to have been 3,000 bushels and the value at the time it was taken to have been 30 cents per bushel.

Mr. Murray is shown to have been an ardent and devoted Union man. The claim was presented to the War Department by Margaret T. Murray, administratrix of the estate of the said Francis M. Murray, deceased, under the act of July 4, 1864, and investigated by an agent of the Quartermaster General, and disallowed by the Quartermaster General for the reason that it appeared that the vessels taking the coal were at the time under the direction of the Navy Department and that the coal taken and used by them was not a proper charge against the War Department.

The claim and accompanying papers were thereafter, at the request of the attorneys for the claimant, referred to the Secretary of the Navy for examination and payment, and returned by him to the Secretary of War with the information that the records of the Navy Department afforded no information concerning the claim.

Your committee report back the bill and recommend its passage.

The bill was laid aside to be reported favorably to the House.

WARREN HALL.

The next business on the Private Calendar was the bill (H. R. 2888) for the relief of Warren Hall.

The bill is as follows:

Be it enacted, etc., That the Court of Claims is hereby given original jurisdiction to hear and adjudicate, according to justice and right and according to the provisions of section 3 of the act approved March 12, 1863, commonly known as "the captured and abandoned property act," the case of Warren Hall, as originally tried and reported in the 9th Court of Claims Reports, page 170, and known as "Hall and Roche's case," notwithstanding the former trial; and if it shall appear that said Hall was, in fact, free born he shall be deemed to be entitled to all such rights as he would have been entitled to if he had continued a free man, notwithstanding he may have been reduced to a state of slavery *de facto* wrongfully or by operation of the laws of any State, and the bar of limitation is hereby removed; and for this purpose the court shall hear and consider the new testimony and any other proper testimony which may be offered at the trial by the claimant on the part of the defendant Government and the testimony considered by the court in the original trial, so far as the same may be applicable to the new trial, shall also be available.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ORDER OF BUSINESS.

Mr. THOMAS. Mr. Chairman, I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ALLEN, of Michigan, reported that the Committee of the Whole House, having had under consideration various bills on the Private Calendar, had instructed him to report the same back with sundry amendments.

BILLS PASSED.

Mr. STONE, of Kentucky. I move that the bills which have been favorably acted upon by the committee be taken up and disposed of before action is had upon those on which other action is recommended.

The SPEAKER. That can be done without objection. Is there objection?

There was no objection.

The following bills reported from the Committee of the Whole without amendment were severally considered, ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed, namely:

The bill (H. R. 2886) for the relief of Allard & Crozier;

The bill (H. R. 2876) for the relief of Samuel Fels;

The bill (H. R. 2885) for the relief of Matilda Cook;

The bill (H. R. 2951) for the relief of the estate of Francis M. Murray, deceased; and

The bill (H. R. 2888) for the relief of Warren Hall.

The following bills reported from the Committee of the Whole with amendments were severally considered, the amendments adopted, and the bills as amended ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed, namely:

The bill (H. R. 3308) to open and set aside an order of the Court of Claims canceling a portion of a judgment against the United States, remitted through mistake as to the facts in regard to the same by claimant to the United States, and to refer the matter to the Court of Claims for such further action as said court shall find to be just and equitable;

The bill (H. R. 2456) for the relief of the legal representatives of Peter Lyle, deceased; and

The bill (H. R. 2922) for the relief of James A. Gregory.

Mr. STONE, of Kentucky, moved to reconsider the several votes taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The following bills reported from the Committee of the Whole with the recommendation that they be recommitted to the committees reporting them were considered and the recommendation of the committee was concurred in, namely:

The bill (H. R. 3913) granting jurisdiction to the Court of Claims, notwithstanding any statutory bar, of the claims of J. F. Bailey & Co. and others; and

The bill (H. R. 2991) for the relief of John L. Rhea, executor of Samuel Rhea, deceased, and Joseph R. Anderson.

CHANGE OF REFERENCE.

Mr. THOMAS. Mr. Speaker, I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. THOMAS. A bill has been erroneously referred to the Committee on War Claims which belongs on the Speaker's table, and I ask unanimous consent that the bill be returned to the table.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (S. 828) for the relief of Sarah E. E. Perine, widow and administratrix of William Perine, deceased.

The SPEAKER. Without objection, the request of the gentleman will be concurred in.

There was no objection, and it was so ordered.

FEES IN PENSION CASES.

Mr. BELKNAP. Mr. Speaker, I report back from the Committee on Invalid Pensions with an amendment the bill (H. R. 12297) regulating the fees of agents or attorneys in certain claims for increase of pension with a request that 5,000 extra copies may be printed.

Mr. DOCKERY. What bill is this?

Mr. BELKNAP. The bill in reference to attorneys' fees in pension cases.

The bill, with the accompanying report, was referred to the House Calendar, and ordered to be printed.

Mr. DOCKERY. Mr. Speaker, I hope the gentleman will ask unanimous consent that the bill and report be printed in the RECORD.

Mr. BELKNAP. I make that request.

The SPEAKER. Is there objection to the request of the gentleman from Michigan that the bill and report be printed in the RECORD and that 5,000 extra copies of the same be printed?

There was no objection.

The bill and report are as follows:

A bill (H. R. 12297) regulating the fees of agents or attorneys in certain claims for increase of pension.

Be it enacted, etc., That so much of the act of July 4, 1884, entitled "An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1885, and for other purposes," as relates to the fees of agents or attorneys in cases of increase of pension on account of the increase of the disability for which the pension had been allowed, be, and the same is hereby, amended so as to limit the fee of the agent or attorney in such claims for increase to one dollar, payable upon the granting of the increase of pension in the manner prescribed in said act, and any agent, attorney, or other person instrumental in prosecuting any such claim for increase of pension who shall directly or indirectly contract for, demand, or receive, or retain any greater compensation for his services or instrumentality in prosecuting such claim for increase of pension, or for payment thereof at any other time or in any other manner than is herein provided, shall be subject to the penalty prescribed in the fourth section of said act.

Amended by striking out "one" in line 12 and inserting "two" instead.

REGULATING THE FEES OF AGENTS OR ATTORNEYS IN CERTAIN CLAIMS FOR INCREASE OF PENSIONS.

Mr. BELKNAP, from the Committee on Invalid Pensions, submitted the following report (to accompany H. R. 12297):

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 12297) amending "An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1885, and for other purposes," submit the following report:

A careful investigation of claims adjudicated and certificates issued by the Pension Department for the month of November, 1890, discloses the following

points and information showing the sums paid to pension attorneys upon certificates actually issued by the Department:

Item	Amount
Original invalids under old acts, upon which a fee of $25 is allowed: Attorneys, 2,793; sum paid attorneys	$69,285
Original widows, old acts, 857, at $25; sum paid attorneys	21,425
Original invalid, under act of June 27, 1890, 901, upon which a fee of $10 was paid	9,100
Original widows, under act of June 27, 1890, 181, at a fee of $10 each, was paid	1,810
Straight increase claims, upon which a fee of $10 each was allowed, 8,545	85,450
Reissues, 769, upon which a fee of $10 each was paid	7,690
Restorations, 101, upon which a fee of $10 was paid	1,010
Under act of March 3, 1883, 8, upon which a fee of $10 each was paid	80
Act of August 4, 1886, 3, upon which a fee of $10 was paid	30
Act of June 7, 1888, 6, upon which a fee of $10 was paid	60
Act of March 4, 1890, 75, upon which a fee of $10 each was paid	750

Arrears act of January 27, 1879, 2. No fee allowed.
Accrued cases, 277. No fee allowed.
Duplicate claims, 70. No fee allowed.

From the above, which is from the official records, it appears that there was paid by the invalid pensioners and by the widows and orphans of our deceased soldiers the sum of $196,220 in fees in this single month.

The total number of certificates issued of all classes was 14,580, which is below the average monthly issue, and consequently the sum paid in fees for the month is less than the amount that upon an average is being paid since the increased force of clerks under late acts.

From the best information obtainable by your committee, the following sums were paid to attorneys during the fiscal year ending June 30, 1890, upon all classes of claims—original, increase, etc.:

Item	Amount
Original claims, 66,517, upon which a fee of $25 is allowed	$1,662,925
Increase claims allowed, upon which a fee of $10 each was paid, 64,966	649,660
Reissues and other claims upon which a fee of $10 was paid, 14,193	141,930

Claims upon which there is no fee allowed, 5,082.

A sum total of $2,454,515 paid in one year to claim agents by the ex-Union soldier or his widow and orphans.

A careful examination in each case may change these figures somewhat, but in the main they are correct and as nearly correct as can be arrived at without a careful scrutiny of each file.

This immense sum was taken from the claims allowed and transmitted to the attorney by officials of the Government without cost to the attorney even to the extent of a postage stamp, a free collection agency, where the collector assumes all the responsibility, both in collection and transmittal, without remuneration, the recipient being at no expense or risk.

Your committee have no means of getting at the exact sum paid to attorneys and claim agents in all cases of claims since the year 1862, but have the reports of the Commissioner of Pensions for each year from 1862 to 1890, and find that 477,482 invalid claims were allowed, upon which the present laws allow a fee of $25. Many of those allowed in the first years paid a larger sum than this, and a very small number have paid a less sum, but if we assume that all have paid $25 it will show $11,937,050.

We have not at command the number of increase claims allowed in the past few years, but there are very few, if any, that have not been increased once, and there are thousands that have been increased from three to seven times, each carrying a ten-dollar fee, and if a correct statement could be found it would show at least as great a sum as was paid in the original claims nearly twelve millions more, and from these conclusions it is a low estimate to place the sum as $24,000,000 that has been taken, not from the Government, but from the soldiers and widows. Add to this the claims of minor children, dependent parents, claims for rerating, etc., and millions more would appear.

It has been estimated by a gentleman who has an experience of twenty years in the Department, and who has had good facilities upon which to make an estimate, and who has availed himself of the opportunity to watch this branch of the Department work, that an investigation of all the claims passed since 1862 will show payment of $37,000,000 in fees to attorneys and agents.

But we have the future to look to, and the possibilities or certainties that are in sight is a matter that now calls for earnest thought and action. We have the experience of the past and present and shall we be guided by it? Your earnest attention and consideration is called to the situation and condition now existing. There has been filed in the Pension Department since the passage of the new law of June 27, 1890, five hundred and thirty thousand claims and more are being added each day. This act grants a pension according to the disability of the claimant, from six to twelve dollars. A careful consideration of the claims already allowed under this act leads to the following conclusion: Based upon the theory that all will be allowed—and we must assume that we will reach this number in due time, as each week adds about three thousand more to those on file—in round numbers there are 530,000 now on file. Of this number 130,000 probably will be allowed at the full rate, $12, and not be a subject of increase; 100,000 will receive $10; 150,000 will receive $8; 150,000 will receive the lowest grade, $6.

It will be seen upon this calculation that there will be 100,000 subject to one increase, and 150,000 subject to two increases, and 150,000 subject to three increases; so that in the three classes there will be a chance of 850,000 increased claims, which, at the usual attorney fee, will cost the claimants $8,500,000.

To be clear in the foregoing statement, your committee have condensed the items of fees paid in the past and those in sight for the future, and come to this conclusion:

Item	Amount
Fees paid in the month of November, 1890, in increase claims	$85,450
Paid in all classes of claims, month of November, 1890	196,220
Fees paid during the year ending June 30, 1890, claims of all kinds	2,450,515
Fees paid in all claims allowed from the year 1862 to June 30, 1890	37,000,000
Under existing laws on original invalid claims now on file under the old laws, 200,000, at a fee of $25	5,000,000
Original claims under laws of June 27, 1890, 530,000, at a fee of $10 each	5,300,000
Fees on increase claims now on file, 300,000, at $10 each	3,000,000
And the estimated number of increased claims that will be filed under the law of June 27, 1890	8,500,000
Which makes the sum of	21,800,000

if all the claims now on file should be allowed, and as new claims are coming into the Department every day to add to this number there seems to be a sufficient margin left for rejected claims. While it may be said that two hundred thousand of the claims filed under the act of June 27, 1890, are duplicates of claims filed under old acts, all will be pushed, as the allowance of one will not kill the other.

In connection with the matter it may not be out of place to state that with the present force of the Pension Department and under its present methods of work about sixteen thousand claims of all kinds can be adjudicated each month, or about one hundred and ninety thousand each year; and at this rate it will take between five and six years to adjudicate the claims now on file.

Well knowing our present condition and judging the future by the past, it is well worthy of our attention and thought. How to rapidly dispose promptly of the claims now on file in justice to the claimants and how to guard the interests of both claimants and taxpayers in the future, is a subject that should have careful attention by the proper authorities.

Veterans and taxpayers unite to ask for thoughtful as well as patriotic legislation. The time has come for that.

The labor performed by the attorneys in original cases is sometimes great, but in most cases the claimant is required to look up all evidence and the attorney's energies are centered on filing the same in the Department and dunning the claimant for postage stamps, which the present law allows him to demand from his client. The work usually required in increase claims of an attorney is very small, and in nearly all claims of this nature the report of the medical board at the claimant's home determines the action of the Department in granting or rejecting the claims. The usual course in securing an increase of pension is for the claimant to furnish proof that his disabilities have increased since last examination. This he does by the proper sworn testimony, usually of a physician, and for which he pays his money. This is sent to the attorney, who, at the expense of a slip of paper, an envelope, and a 2-cent stamp, sends it through the mail to the Department; first, however, sending the claimant blanks for a power of attorney and liberal supply of postage stamps. This power of attorney, with the aforesaid medical testimony, is inclosed to the Commissioner of Pensions, with a request that the claimant may be ordered before the medical board of his home county for the examination that shall decide his rights in the matter.

This usually terminates the attorney's work, and he can afford to wait, for the Government is watching the claim with a careful eye, and when the wheels turn around to the case it comes out of the hopper; the attorney takes the toll and the veteran the grist, and very often the toll and grist are so nearly equal in size that it requires a set of apothecary scales to determine which is grist and which is toll. Disgusted with the small sum that is left him, he is an easy prey to some one of the many agents who assure him that he has not received proper rating, and another claim is made, that in time reaches the surface, and in this way the old soldier is supporting an army in numbers, each of which grows in wealth, not at the expense of the Government, but of the man who risked his life and health for his country in time of war. And now that we know of these things we should study their origin and cause, and before it is too late apply a remedy. We have the disease, but who is responsible?

It is said we never lock the stable until the horse is stolen. In the first years of the war the soldier was paid the magnificent sum of $13 per month; and each regiment had a regularly appointed official, known as "the sutler," who was licensed by the Government to supply the small things needful to a soldier's comfort and decency, such as paper, envelopes, thread, buttons, ink, and a hundred other little things, not forgetting tobacco and commissary whisky at prices that yielded a thousand per cent. profit to the sutler.

The Government for which they fought legalized this robbery, and the soldiers themselves rebelled against this custom and drove from its armies these plunderers.

And then when the time came for the Government to care for the wounded and sick it did so with a bountiful hand. With an empty Treasury and an immense war debt to meet, the first pensions were small, but God blessed our land, the Treasury was filled, the debts were paid, and the bounty of the nation was increased to the Union soldier, his widow and orphans. And then the pension agent came into existence. At first in a modest way he only claimed 5 per cent. of the amount secured, but practice and a knowledge that the Government would permit it induced him to raise his fee, and it was only a few years when the soldier was very fortunate who received 5 per cent. of the amount allowed.

These practices became so scandalous that laws were passed fixing certain fees that might be paid, and severe penalties were prescribed for the violation of such laws. New laws were passed at nearly every session of Congress, increasing the amount to be paid in certain disabilities. From time to time new classes have been added to the rolls, until at the present time no disabled soldier, no soldier's widow, his minor children, or his dependent parents are forgotten, but with all this work and loving generosity Congress has forgotten to cause its own salaried officials to properly dispose of the funds appropriated and save to the pensioner the full sum to the last cent. All the world sings the praise of the soldiers who fought our battles; all join to do him honor. Then why should he become the prey of certain men, who grow rich upon the money that is barely enough to keep the wolf from the door?

If the laws upon our book will not permit the officials to properly award the pension appropriations, then new laws should be passed at once that will do so.

There is a large army on the pension roll, and the number is increasing every day, and the fees to attorneys will grow in proportion. If we take the month of November, 1890, before cited as an example, we will pay $1,025,400 in the next twelve months, and in the next ten years $10,254,000, to increase claims alone that have been allowed under old laws up to the present time, and if the pension is granted or increased for the sole benefit of the soldier why should it not all go to him? The Government at one-tenth the expense could arrive at the same results and give to the claimants the remaining nine-tenths.

Your committee is informed by authorities in the Pension Department that there are about three hundred thousand claims for increase on file in the Department, nearly all of which will carry to some agent a ten-dollar fee. Should all be allowed the Government will take $3,000,000 out of the pensioners' funds and put it safely in the pockets of the attorney.

A long and intimate acquaintance with old soldiers has failed to reveal any who have become millionaires by reason of the pensions paid them. This can not be said of the pension attorney, for it is well known that many large fortunes have been made in the past few years, and there are in sight many more such fortunes if we do not do our duty in this matter.

Your committee has no desire to criticise the claim agents. There are many honorable men in the business, men who would spurn a dollar not honestly earned, men who are true friends of the soldier and who despise the methods used by some others in the same business, namely, those who care nothing for the soldier, his past or future; they are after his money, and they stop not when they have his money, but steal the bronze button of honor that he wears in his coat. They would take the man who dared death itself on a dozen battlefields and force him into disgrace and beggary.

The following extracts from the report of the Commissioner of Pensions for the year ending June 30, 1890, is made a part of this report.

There were on June 30, 1890, 537,944 pensioners borne upon the rolls and classified as follows:

Class	Number
Army invalid pensioners	392,809
Army widows, minor children, and dependent relatives	104,456
Navy invalid pensioners	5,274
Navy widows, minor children, and dependent relatives	2,460
Survivors of the war of 1812	413
Widows of soldiers of the war of 1812	8,610
Survivors of the Mexican war	17,158
Widows of soldiers of the Mexican war	6,764
Total	537,944

There were 66,637 original claims allowed during the year, being 14,716 more original claims than were allowed during the fiscal year 1889 and 6,385 more than were allowed during the fiscal year 1888.

The amount of the first payments in these 66,637 original cases amounted to $32,478,841.18, being $11,036,492.05 more than the first payments on the original

claims allowed during the fiscal year 1889 and $10,179,225.72 more than the first payments on the original claims allowed during the fiscal year 1888.

The average value of the first payments on these original claims for 1890 was $185.71.

The average annual value of each pension at the close of the fiscal year was $133.94.

Total number of certificates issued from July 1 to October 19, 1888	46,904
Total number of certificates issued from July 1 to October 19, 1889	30,664
Falling off in the issues for the period in 1889	16,664
Total number of certificates issued from October 20, 1889, to June 30, 1890	121,418
Total number of certificates issued from October 20, 1888, to June 30, 1889	98,338
Increase in the work for 1890	23,080
Total number of certificates issued, year ending June 30, 1890	151,658
Total number of certificates issued, year ending June 30, 1889	145,292
Total number of certificates issued, year ending June 30, 1888	113,081
Increase in 1890 over 1889	6,366
Increase in 1890 over 1888	38,577
Total of original certificates issued, year ending June 30, 1890	66,637
Total of original certificates issued, year ending June 30, 1889	51,896
Increase in 1890 over 1889	14,741

STATEMENT OF MAILS RECEIVED AND SENT FOR THREE MONTHS.

That the public may have a proper understanding of the immense amount of business that is now being transacted in this bureau, I lay before you the following statement of mail matter received and sent out during the months of July, August, and September, just passed:

Amount of mail received in—	
July, 1890	341,451
August, 1890	601,657
September, 1890	333,621
Total	1,276,729
Amount of mail sent out in—	
July, 1890	226,076
August, 1890	181,325
September, 1890	188,061
Total	485,462

TOTAL OFFICIAL FORCE.

The official force of the Bureau of Pensions—Now authorized by law	2,009
There are 18 pension agents and 419 persons employed at said agencies, in all	437
There are 1,028 boards of medical examiners, of three persons each, and 383 single surgeon examiners, in all	3,467
Total number of persons employed in connection with the Bureau of Pensions	5,913

SURVIVORS OF THE WAR FOR THE UNION.

During the consideration of the various pension bills at the late session of Congress, the question as to the number of soldiers who are now survivors of the late war of the rebellion was carefully considered at the request of the Committee on Invalid Pensions. The following is the result:

Upon a careful examination of the subject I came to the conclusion that more than one-third of the men who were discharged in 1865 were subject, by reason of wounds and other disabilities, to a higher rate of mortality than ordinary citizens in private life. The rate of mortality of soldiers on the pension rolls has been far greater than the rate of death upon which the American tables are constructed. I fixed upon the number of 586,000 discharged from the Army as constituting the number who were probably subject to the higher rate of mortality, and I came to the conclusion that the expectation of life with this body of men, by reason of their disabilities had been shortened about twelve years.

Number of soldiers enlisted during the war for the Union, excluding re-enlistments		2,213,365
Number killed in battle and by other casualties and who died of disease to July 1, 1865	364,116	
Estimated number of deaths of soldiers discharged during the war to July 1, 1865	25,284	
Number of desertions	121,896	
		511,296
Number of survivors of the war July 1, 1865, less deaths and desertions		1,702,069
Number of survivors July 1, 1865, less deaths and desertions, who were subject to the usual laws of mortality		1,116,069
Number of survivors July 1, 1865, who, because of wounds and other disabilities, were subject to a higher rate of mortality, equal to twelve years' shortening of the expectation of life		586,000
Number surviving July 1, 1890, who are probably subject to the ordinary life tables		831,089
Number surviving July 1, 1890, who are subject to a greater death rate		415,000
Total number of survivors July 1, 1890		1,246,089

Of the foregoing number of survivors, about 144,000 are now sixty-two years of age and upwards.

Statement showing the different monthly rates of pension and the number pensioned at each rate of the army and navy invalids and of the army and navy widows, minors, and dependents (war of 1861) on the rolls June 30, 1890.

Rates.	Invalids.			Widows and others.		
	Army.	Navy.	Total.	Army.	Navy.	Total.
$1.00	25	1	26			
2.00	21,001	231	21,232			
2.25	1		1			
$2.66⅔	7		7			
3.00	1,247	32	1,279			
3.25	1		1			
3.75	210	9	219			
4.00	70,885	904	71,789			
4.25	243		243			
5.00	942	68	1,010			
5.25	2		2			
5.33⅓	10	1	11			
5.66⅔	4		4			
5.75	11		11			
6.00	53,586	525	54,111			
6.25	57	3	60			
6.37½	3		3			
6.75	2		2			
7.00	135	3	138			
7.25		2	2			
7.50	599	12	611			
7.75	11	2	13			
8.00	77,835	1,092	78,927	575	19	594
8.25	15		15			
8.50	769	1	770			
8.66⅔	1		1			
8.75	5	2	7			
9.00	514	4	518			
9.25	16		16			
9.50	18	7	25			
9.75	6	4	10			
10.00	30,709	402	31,111	2	1	3
10.20	1		1			
10.25	6	2	8			
10.50	18	10	28			
10.62	1		1			
10.66⅔	1		1			
10.75	1	14	15			
11.00	80	7	87			
11.25	296	12	308			
11.33⅓	4		4			
11.50	20	5	25			
11.75	9	3	12			
12.00	35,825	407	36,232	96,590	1,792	98,382
12.25	13		13			
12.50	187	21	208	1		1
12.75	448	1	449			
13.00	475	8	483			
13.25	7	9	16			
13.33⅓	4		4			
13.50	24	5	29			
13.75	9	1	10			
14.00	12,753	111	12,864	1		1
14.25	15	3	18			
14.50	3	2	5			
14.75	6		6			
14.87½	1		1			
15.00	2,801	93	2,894	1,329	110	1,439
15.25		1	1			
15.50	4	3	7			
15.75		7	7			
16.00	15,813	162	15,975			
16.25	9	2	11			
16.50	9	5	14			
16.75	14		14			
17.00	10,981	121	11,102	2,203	4	2,207
17.25	1	2	3			
17.50	16	5	21			
17.75	3		3			
18.00	4,212	47	4,259	44		44
18.25		4	4			
18.50	16	1	17			
18.75	114	4	118			
19.00	14	3	17			
19.25	9		9			
19.50		1	1			
20.00	4,293	95	4,388	2,370	144	2,514
20.75	2	2	4			
21.00	3	1	4			
21.25	65		65			
21.50	1		1			
22.00	2,595	58	2,653			
22.50	99	4	103			
23.00	4		4			
23.25	2		2			
23.50	1		1			
23.75	1		1			
24.00	17,055	256	17,311	4		4
24.50	2	1	3			
25.00	2,569	68	2,637	641	127	768
25.25	1		1			
25.75		3	3			
26.00	1		1			
26.25	6		6			
26.75	1	2	3			
27.00	816	23	839			
27.50	11		11			
28.00	1		1			
29.00	1		1			
29.50		1	1			
30.00	13,193	210	13,403	610	209	819
30.75		2	2			
31.00		1	1			
31.25	56		56			
32.00	3	4	7			
32.50		5	5			
33.00	1	2	3			
33.50		1	1			

Statement showing the different monthly rates of pension, etc.—Continued.

Statement showing the different monthly rates of pension, etc.—Continued.

Rates.	Invalids.			Widows and others.		
	Army.	Navy.	Total.	Army.	Navy.	Total.
$35.00	3	2	5	2		2
35.50		3	3			
36.00	3,191	39	3,230			
37.00		1	1			
37.50				1		1
38.50		1	1			
40.00	38		38	8	3	11
40.25		1	1			
45.00	2,568	23	2,591	2		2
46.00	1		1			
49.00	2		2			
50.00	843	9	852	55	47	102

Statement showing the different monthly rates of pension, etc.—Continued.

Rates.	Invalids.			Widows and others.		
	Army.	Navy.	Total.	Army.	Navy.	Total.
$53.00	1		1			
57.00	1		1			
60.00	1		1			
72.00	2,258	66	2,324			
75.00				4		4
100.00	26	3	29	7	2	9
166.66⅔				3		3
208.33⅓				1		1
416.66⅔				3		3
Total	392,809	5,274	398,083	104,456	2,460	106,916

Comparative statement by the Third Auditor of the Treasury showing disbursements by pension agents to pensioners and examining surgeons during the fiscal years 1886, 1887, 1888, 1889, and 1890, and entire expenses of the agencies during said years, including salaries, clerk hire, rent, fuel, lights, and contingent expenses and the average cost for each $1,000 disbursed.

Agency.	Year 1886.			Year 1887.			Year 1888.			Year 1889.			Year 1890.		
	Disbursements.	Expenses.	Cost for each $1,000 disbursed.	Disbursements.	Expenses.	Cost for each $1,000 disbursed.	Disbursements.	Expenses.	Cost for each $1,000 disbursed.	Disbursements.	Expenses.	Cost for each $1,000 disbursed.	Disbursements.	Expenses.	Cost for each $1,000 disbursed.
Augusta, Me	$2,021,596.13	$10,496.22	$5.19	$2,238,329.02	$8,421.94	$3.76	$2,307,658.05	$8,598.17	$3.72	$2,509,774.06	$8,898.59	$3.54	$2,667,948.26	$9,961.73	$3.73
Boston, Mass	3,580,926.55	16,667.51	4.65	3,927,356.81	14,365.08	3.62	4,015,599.39	15,285.50	3.80	4,680,210.86	15,442.09	3.30	5,514,271.14	15,035.77	2.73
Buffalo (formerly Syracuse), N. Y	4,091,369.96	18,189.76	4.44	4,687,573.09	14,503.75	3.09	4,584,383.40	14,885.32	3.25	4,934,343.45	15,432.38	3.12	5,751,005.00	15,328.92	2.67
Chicago, Ill	5,739,477.53	23,457.54	4.08	6,240,484.47	18,837.10	3.02	6,736,781.67	20,847.45	3.09	7,165,562.55	21,200.00	2.96	8,640,294.80	21,698.80	2.51
Columbus, Ohio	6,241,766.86	25,000.41	4.01	7,596,773.36	21,406.58	2.82	8,328,953.32	21,699.36	2.61	9,516,330.51	22,349.55	2.35	11,213,645.08	26,177.28	2.33
Concord, N. H	2,277,244.40	12,420.94	5.45	2,441,808.81	9,804.40	4.02	2,380,633.14	10,219.71	4.25	2,657,348.82	10,742.60	4.04	2,885,995.19	9,624.64	3.03
Des Moines, Iowa	3,926,786.55	14,501.95	3.69	4,523,163.02	12,690.32	2.81	4,794,840.12	13,198.16	2.75	4,963,817.55	14,619.51	2.93	6,323,894.87	15,430.38	2.43
Detroit, Mich	3,054,168.80	16,202.83	5.31	3,804,836.85	12,845.51	3.37	4,129,335.84	12,996.02	3.15	4,488,961.02	13,664.10	3.04	5,480,938.93	16,587.10	3.03
Indianapolis, Ind	5,481,046.14	23,439.98	4.27	6,385,530.26	19,050.01	2.98	7,016,535.19	20,322.57	2.89	8,432,758.75	23,650.00	2.80	9,940,531.49	25,510.98	2.57
Knoxville, Tenn	3,382,862.03	14,149.33	4.18	4,149,985.09	11,760.79	2.81	3,888,537.64	13,441.03	3.46	4,057,216.81	12,972.93	3.20	4,730,845.77	12,757.64	2.70
Louisville, Ky	2,041,215.51	8,734.55	4.28	2,418,481.94	7,960.00	3.29	2,538,716.19	8,348.21	3.29	2,832,697.87	9,037.30	3.19	3,543,040.45	9,526.95	2.70
Milwaukee, Wis	3,560,400.60	15,035.67	4.22	3,985,690.63	13,522.04	3.39	4,251,136.31	13,767.55	3.24	4,569,938.07	14,059.91	3.08	5,795,594.68	15,883.61	2.74
New York City, N. Y	2,623,005.46	21,065.94	8.03	3,270,216.28	18,244.85	5.55	3,575,256.42	17,933.19	5.02	4,070,741.83	17,987.86	4.17	4,793,712.27	21,856.39	4.56
Philadelphia, Pa	3,040,664.85	15,441.09	5.08	3,813,519.35	13,157.10	3.45	4,158,617.80	14,138.56	3.40	4,435,153.44	15,649.00	3.53	5,102,160.39	15,075.09	2.95
Pittsburgh, Pa	3,069,687.85	15,019.43	4.89	3,675,097.55	13,180.71	3.59	3,768,290.66	15,690.04	4.16	4,033,812.89	16,326.75	4.05	4,615,123.50	15,681.76	3.40
San Francisco, Cal	518,835.71	7,706.35	14.85	639,227.62	7,703.50	12.05	1,028,551.56	8,042.02	7.82	1,218,484.81	8,803.00	7.22	1,434,430.53	7,663.72	5.34
Topeka, Kans	5,048,501.89	16,761.37	3.32	5,850,951.76	13,814.19	2.36	6,539,847.58	16,079.80	2.46	7,233,466.95	17,090.17	2.36	9,448,623.80	18,977.40	2.01
Washington, D. C	3,772,158.64	20,432.97	5.42	3,791,012.54	17,012.52	4.49	4,372,583.99	17,617.21	4.03	5,577,263.98	20,976.40	3.76	6,706,086.14	19,919.19	2.94
Total	63,471,743.46	294,724.14	4.64	73,440,038.45	248,280.42	3.38	78,416,258.27	263,109.87	3.35	87,277,884.22	278,902.20	3.20	104,582,142.29	292,697.35	2.80

Statement by the Third Auditor of the Treasury of amounts paid to each class of pensioners, etc., as shown by accounts-current of pension agents, during year ending June 30, 1890.

Agency.	Agent.	Army pensions.							
		Invalids.	Widows.	Minors.	Dependent relatives.	War of 1812.		Mexican war.	
						Survivors.	Widows.	Survivors.	Widows.
Augusta, Me	John D. Anderson	$500,162.09	$99,203.04	$7,713.08	$79,824.32	$871.73	$20,186.00	$1,953.33	$480.00
Do	John A. Clark	1,368,578.65	283,059.41	17,584.55	205,248.55	2,724.00	62,836.92	5,265.33	2,028.01
Boston, Mass	B. F. Peach, jr	3,309,893.40	1,528,680.68	79,418.30	457,224.49	1,724.53	87,585.50	23,872.52	11,661.58
Buffalo, N. Y	J. Schenkelberger	3,844,508.88	1,098,982.83	70,819.02	589,302.96	4,446.14	99,743.88	17,791.05	5,376.27
Chicago, Ill	M. A. Mulligan	4,410,886.65	1,206,107.04	204,593.52	366,739.69	919.20	43,287.78	87,633.26	39,201.82
Do	Isaac Clements	1,473,050.89	503,646.86	105,270.71	112,863.11	216.00	12,100.80	28,423.73	14,411.98
Columbus, Ohio	G. H. Bargar	5,958,996.08	1,635,097.24	160,386.29	513,453.68	2,433.87	79,726.32	49,470.28	20,068.90
Do	John G. Mitchell	1,946,345.62	549,523.19	46,861.22	155,811.19	610.67	21,824.00	15,465.07	5,916.00
Concord, N. H	W. H. D. Cochrane	2,074,102.80	450,852.92	20,239.02	279,331.25	1,268.00	39,894.18	6,170.40	2,892.52
Des Moines, Iowa	C. S. Lake	3,939,608.12	605,874.25	101,710.82	268,568.08	562.14	27,988.89	48,060.70	13,688.80
Do	S. A. Marine	1,035,594.07	156,397.48	12,944.79	61,102.13	168.00	5,774.00	14,952.53	4,235.20
Detroit, Mich	Robert McKinstry	3,270,559.10	542,004.45	51,501.71	244,866.40	1,235.74	27,574.34	19,831.71	6,371.10
Do	E. H. Harvey	992,742.03	183,992.69	17,781.34	81,088.94	285.33	7,836.40	6,268.00	1,970.40
Indianapolis, Ind	C. A. Zollinger	3,661,717.25	877,414.11	172,501.06	233,757.68	512.00	28,421.08	38,061.56	16,640.00
Do	N. Ensley	3,508,622.89	909,937.93	160,610.97	212,987.73	573.80	20,991.80	37,008.39	15,603.19
Knoxville, Tenn	D. A. Carpenter	335,971.38	125,603.18	42,635.73	45,226.29	1,150.67	17,425.42	13,133.56	15,216.97
Do	William Rule	1,950,925.67	870,163.81	142,978.51	239,700.03	4,422.00	218,445.52	451,542.59	237,060.85
Louisville, Ky	D. C. Buell	1,224,687.73	465,132.11	84,952.32	160,428.67	719.07	25,932.48	43,914.10	19,096.50
Do	C. J. Walton	935,470.42	324,595.46	42,395.03	118,338.56	654.00	22,658.27	37,627.46	18,260.80
Milwaukee, Wis	A. B. Judd	3,252,503.51	596,440.86	59,358.39	260,206.04	1,512.80	20,863.21	28,670.84	8,817.06
Do	L. E. Pond	1,186,153.42	232,695.13	28,976.01	80,648.20	168.00	4,485.40	9,563.33	2,801.60
New York City, N. Y	F. C. Loveland	2,872,362.37	1,263,124.54	88,577.81	408,199.65	3,800.00	66,078.54	54,350.59	24,649.94
Philadelphia, Pa	William W. H. Davis	1,065,258.66	373,005.75	31,704.22	176,362.42	120.00	12,220.07	12,816.43	7,226.37
Do	W. H. Shelmire	2,168,838.87	804,136.43	44,585.65	302,068.90	288.00	32,262.74	32,380.38	17,971.72
Pittsburgh, Pa	W. H. Barclay	3,291,988.93	740,605.21	53,208.91	440,719.39	937.60	36,810.54	23,238.33	10,029.86
San Francisco, Cal	T. H. Allen	904,635.20	146,643.44	50,707.78	31,865.21	584.00	12,666.41	236,701.54	43,504.20
Topeka, Kans	G. W. Glick	1,949,854.60	417,879.13	68,778.03	119,161.57	354.00	15,348.94	59,103.65	19,446.09
Do	B. Kelly	4,903,129.36	1,106,338.49	202,759.73	276,928.87	2,943.67	43,196.52	158,124.54	60,026.99
Washington, D. C	S. L. Willson	4,534,467.85	909,719.49	100,882.73	283,209.56	2,612.13	149,070.42	166,607.34	50,400.09
Total		71,877,616.49	19,006,857.15	2,271,937.05	6,808,233.56	38,847.09	1,263,239.37	1,728,027.54	695,054.90

Statement by the Third Auditor of the Treasury of amounts paid to each class of pensioners, etc.—Continued.

Agency.	Agent.	Fees of examining surgeons.		Expenses of agencies.						
		1889.	1890.	Salaries.	Clerk hire.	Rent.	Fuel.	Lights.	Contingent expenses.	Total.
Agusta, Me	John D. Anderson	$2,802.25		$1,000.00	$1,218.00	$95.00	$1.20		$61.58	$715,571.62
Do	John A. Clark	2,948.00	$1,479.00	3,000.00	3,704.00	285.00	84.49	$14.40	498.06	1,962,338.37
Boston, Mass	B. F. Peach, jr	7,658.23	6,347.79	4,000.00	10,440.59				595.18	5,529,102.79
Buffalo, N. Y	J. Schenkelberger	9,649.61	8,405.04	4,000.00	10,674.92				654.00	5,764,354.60
Chicago, Ill	M. A. Mulligan	15,729.24	14,942.25	3,000.00	11,132.25				754.66	6,404,927.36
Do	Isaac Clements			1,000.00	5,436.99				374.90	2,256,795.97
Columbus, Ohio	G. H. Bargar	27,271.31	21,063.95	3,333.33	15,090.13				997.86	8,487,389.24
Do	John G. Mitchell			666.67	5,689.25				400.04	2,749,112.92
Concord, N. H	W. H. D. Cochrane	6,256.40	4,314.44	4,000.00	5,324.64				300.00	2,894,946.57
Des Moines, Iowa	C. S. Lake	14,665.50	11,999.37	3,455.55	8,709.50				764.74	5,045,656.46
Do	S. A. Marine			544.45	1,881.14				75.00	1,293,668.79
Detroit, Mich	Robert McKinstry	13,024.32	11,247.24	3,377.77	8,964.05	1,000.00	85.15	100.00	550.00	4,202,293.17
Do	E. H. Harvey			622.23	1,473.50	200.00		14.40	200.00	1,294,475.26
Indianapolis, Ind	C. A. Zollinger	25,308.93	18,678.55	2,222.20	8,933.21	909.72		76.77	737.44	5,085,391.56
Do	N. Ensley			1,777.80	9,313.79	777.78		72.27	690.00	4,878,966.34
Knoxville, Tenn	D. A. Carpenter			544.44	1,092.68				55.60	598,055.92
Do	William Rule	7,089.95	5,058.90	3,455.56	7,047.42				561.94	4,144,452.75
Louisville, Ky	D. C. Buell	8,262.25	9,197.75	2,444.44	2,950.50				227.44	2,047,945.36
Do	C. J. Walton			1,555.56	2,116.50				232.51	1,503,904.57
Milwaukee, Wis	A. B. Judd	12,220.72	9,135.23	2,916.66	6,849.24	1,179.79			515.42	4,261,189.77
Do	L. E. Pond			1,083.34	2,700.95	438.21			200.00	1,549,913.59
New York City, N. Y	F. C. Loveland	6,086.82	6,405.21	4,000.00	11,630.84	4,000.00	231.75	121.53	1,872.27	4,815,491.66
Philadelphia, Pa	William W. H. Davis	10,088.88	7,246.93	1,677.77	4,003.36				108.88	1,701,869.74
Do	W. H. Shelmire		3,019.00	2,322.23	6,343.24				619.61	3,414,836.77
Pittsburgh, Pa	W. H. Barclay	9,259.29	8,325.44	4,000.00	8,586.76	2,000.00			1,095.00	4,630,805.26
San Francisco, Cal	T. H. Allen	2,719.00	1,403.75	4,000.00	2,748.72	680.00			235.00	1,442,094.25
Topeka, Kans	G. W. Glick	10,730.59		1,000.00	3,486.00				175.54	2,665,318.14
Do	B. Kelly	11,453.00	20,755.45	3,000.00	10,536.77				779.09	6,799,972.48
Washington, D. C	S. L. Willson	10,631.15	490,227.78	4,000.00	13,212.75	900.00	85.50	30.79	1,690.15	6,717,777.73
Total		213,855.44	662,253.07	72,000.00	191,291.69	12,465.50	488.09	430.16	16,021.91	104,858,619.01

ORDER OF BUSINESS.

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

The question was taken; and on a division there were—ayes 68, noes 18.

Pending the announcement of the vote.

ENROLLED BILLS SIGNED.

Mr. KENNEDY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution and bills of the following titles; when the Speaker signed the same:

A joint resolution (S. R. 90) providing for the printing of decisions of the Department of the Interior regarding public lands and pensions, for sale;

A bill (S. 1512) to erect a public building at Lima, Ohio;

A bill (S. 1977) to provide for the construction of a public building at Meridian, in the State of Mississippi;

A bill (S. 3796) to provide for the purchase of a site and the erection of a public building thereon at Racine, in the State of Wisconsin; and

A bill (S. 4155) for a public building at Sheboygan, Wis.

The result of the vote was then announced as above recorded; and accordingly (at 4 o'clock and 40 minutes p. m.) the House adjourned.

EXECUTIVE AND OTHER COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following communications were taken from the Speaker's table and referred as follows:

SULLIVAN FALLS, MAINE.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a report of the examination and survey of Sullivan Falls, Maine—to the Committee on Rivers and Harbors.

ALSEA BAY AND RIVER, OREGON.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a report of the examination and survey of Alsea Bay and River, Oregon—to the Committee on Rivers and Harbors.

NOTTOWAY RIVER, VIRGINIA.

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

CONNECTICUT RIVER, FROM LONG ISLAND SOUND TO HARTFORD, ETC.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a report of the examination and survey of the Connecticut River from Long Island Sound to Hartford, Conn., etc.—to the Committee on Rivers and Harbors.

WESTERN BRANCH OF ELIZABETH RIVER, VIRGINIA.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a report of the examination and survey of the western branch of Elizabeth River, Virginia—to the Committee on Rivers and Harbors.

BUREAU OF ANIMAL INDUSTRY.

A communication from the Secretary of Agriculture, transmitting the annual report of the operations and expenditures of the Bureau of Animal Industry for the year 1890—to the Committee on Expenditures in the Department of Agriculture.

DISMISSED CASES BY THE COURT OF CLAIMS.

A communication from the assistant clerk of the Court of Claims, transmitting a statement of the cases dismissed by the court on the ground of "loyalty not found" in the claimants, together with the findings of the court in each case—to the Committee on War Claims.

SPOLIATION CLAIM IN THE MATTER OF THE BRIG VULTURE.

A communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed by the court in the matter of certain spoliation claims; brig Vulture, Master John Berry—to the Committee on Appropriations.

WILLIAM H. CHAPMAN, FOR HEIRS OF JOHN SWARTZENBURG, VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of William A. Chapman, for the heirs of John Swartzenburg, against The United States—to the Committee on War Claims.

HEIRS OF EDMUND H. MARTIN, DECEASED, VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of the heirs of Edmund H. Martin, deceased, against the United States—to the Committee on War Claims.

DISMISSED CASE OF JOHN T. CROCKETT VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of John T. Crockett agains The United States.

ESTATE OF SAMUEL NEIDLINGER VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings by the court in the case of the estate of Samuel Neidlinger against the United States—to the Committee on War Claims.

REPORT OF THE EXPENDITURES OF THE SMITHSONIAN INSTITUTION.

A communication from the Secretary of the Smithsonian Institution, transmitting a statement of the expenditures for the fiscal year 1890, under the appropriation for international exchanges, National Museum, North American ethnology, and National Zoölogical Park—to the Committee on Expenditures in the Interior Department.

ANNUAL REPORT BOARD OF MANAGERS NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

A communication from the president and board of managers, transmitting the annual report of the Board of Managers of the National Home for Disabled Volunteer Soldiers for the fiscal year ending June 30, 1890, together with the record of members of the National Home

from July 14, 1889, to July 1, 1890, and the report of the assistant inspector general, National Home for Disabled Volunteer Soldiers, on the inspection of national military homes and soldiers' homes in States, July 1, 1890—to the Committee on Military Affairs.

BENICIA ARSENAL, BENICIA, CAL.

Letter from the Acting Secretary of the Treasury, transmitting a copy of the communication from the Secretary of War, submitting an estimate of an appropriation of $11,000 for the Benicia Arsenal, Benicia, Cal.—to the Committee on Appropriations.

COLLECTING REVENUE FROM CUSTOMS.

Letter from the Secretary of the Treasury, recommending that the permanent annual appropriation for expenses of collecting the revenue from customs be increased to $7,500,000 and the receipts from customs fines, penalties, forfeitures, etc., be covered into the Treasury—to the Committee on Appropriations.

EFFICIENCY OF EMPLOYÉS IN NAVY DEPARTMENT.

A letter from the Acting Secretary of the Treasury, transmitting a report of the Secretary of the Navy of the employés of that Department who are considered below a fair standard of efficiency—to the Committee on Appropriations.

RESOLUTIONS.

Under clause 3 of Rule XXII, the following resolution was introduced and referred as follows:

By Mr. FARQUHAR:

Resolved, That Tuesday, December 16, and Wednesday, December 17, immediately after the approval of the Journal, be fixed for the consideration of Senate bill No. 3738, entitled "A bill to place the American merchant marine engaged in the foreign trade upon an equality with that of other nations," and the substitute therefor proposed by the Committee on Merchant Marine and Fisheries, and this shall be a continuing order, not, however, to interfere with bills raising revenue, general appropriation bills, nor prior special orders;

to the Committee on Rules.

REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII, reports of committees were delivered to the Clerk and disposed of as follows:

Mr. DUNNELL, from the Select Committee on the Eleventh Census, reported favorably the bill of the House (H. R. 12500) making an apportionment of Representatives in Congress among the several States under the Eleventh Census, accompanied by a report (No. 3280)—to the House Calendar.

Mr. BUCHANAN, of New Jersey, from the Committee on Patents, reported with amendment the bill of the House (H. R. 12216) appointing commissioners to revise the statutes relating to patents and trade and other marks, accompanied by a report (No. 3281)—to the Committee of the Whole House on the state of the Union.

Mr. STOCKBRIDGE, from the Committee on Commerce, reported with amendment the bill of the House (H. R. 12508) to regulate the right of way in the channel of the Chesapeake Bay, accompanied by a report (No. 3282)—to the House Calendar.

Mr. CUTCHEON, from the Committee on Military Affairs, reported favorably the joint resolution of the House (H. Res. 240) to authorize the Secretary of War to issue ordnance and ordnance stores to the Washington High School, accompanied by a report (No. 3283)—to the House Calendar.

Mr. SWENEY, from the Committee on Commerce, reported with amendment the bill of the House (H. R. 3289) to authorize the construction of a railroad bridge across the Missouri River near Decatur, Nebr., accompanied by a report (No. 3284)—to the House Calendar.

Mr. BAKER, from the Committee on Commerce, to which was referred the following resolution of the House:

Resolved, That the United States Fish Commissioner be, and is hereby, requested to report to this body the desirability of the Government establishing a fish hatchery in Northern New York, near the St. Lawrence River;

reported the same favorably, accompanied by a report (No. 3285)—to the House Calendar.

Mr. DALZELL, from the Committee on the Pacific Railroads, reported favorably the bill of the Senate (S. 4175) authorizing the Secretary of the Treasury to settle the indebtedness to the Government of the Sioux City and Pacific Railroad Company, accompanied by a report (No. 3286)—to the House Calendar.

Mr. ADAMS, from the Committee on the Judiciary, reported favorably the bill of the House (H. R. 576) to authorize certain corporations to become surety in cases within the jurisdiction of Federal courts and Departments, accompanied by a report (No. 3287)—to the House Calendar.

Mr. DINGLEY, from the Committee on Merchant Marine and Fisheries, reported with amendment the bill of the House (H. R. 11437) to amend sections 11 and 12 of the shipping act of 1886, accompanied by a report (No. 3288)—to the House Calendar.

Mr. DE LANO, from the Committee on Pensions, reported favorably the bill of the House (H. R. 12349) granting an increase of pension to William J. Mathis, accompanied by a report (No. 3289)—to the Committee of the Whole House.

BILLS AND JOINT RESOLUTIONS.

Under clause 3 of Rule XXII, bills and joint resolutions of the following titles were introduced, severally read twice, and referred as follows:

By Mr. GEARY: A bill (H. R. 12597) to revise sections 2167 and 2168 and to amend section 2165, Revised Statutes, and relating to the naturalization of aliens—to the Select Committee on Immigration and Naturalization.

By Mr. EVANS: A bill (H. R. 12598) to establish a limited postal and telegraph service, and for other purposes—to the Committee on the Post Office and Post Roads.

By Mr. SHIVELY: A bill (H. R. 12599) to compensate certain enlisted men of the Signal Corps, United States Army, for discharge from the military service and consequent loss of the benefits of long service provided by law—to the Committee on Military Affairs.

By Mr. BURTON: A bill (H. R. 12600) to provide for a patrol steamer for the replacing of buoys in the St. Mary's River, Michigan—to the Committee on Commerce.

By Mr. FLOWER: A joint resolution (H. Res. 252) directing the Secretary of the Treasury to extend the bonded period for goods in bond in customhouses of the United States from February 1 until July 1, 1891—to the Committee on Ways and Means.

By Mr. ENLOE: A joint resolution (H. Res. 253) to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1890, on the 20th day of said month—to the Committee on Accounts.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the following changes of reference were made:

A bill (S. 3463) for the relief of John A. Lynch—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 12469) for the payment to the widow of the late Justice Samuel F. Miller one year's salary—Committee on Appropriations discharged, and referred to the Committee on 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. BARWIG: A bill (H. R. 12601) granting a pension to Jane Findlay, mother of John Findlay, late of Company A, Twenty-eighth Regiment Wisconsin Volunteer Infantry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 12602) granting a pension to Lorenz Hegel—to the Committee on Invalid Pensions.

By Mr. BELDEN: A bill (H. R. 12603) granting a pension to Lucy J. Blanchard, late a volunteer nurse in the United States military service—to the Committee on Invalid Pensions.

By Mr. BUCHANAN, of New Jersey: A bill (H. R. 12604) to amend the final discharge of Edward D. Cook, second lieutenant of the Eighty-first New York Volunteers—to Committee on Military Affairs.

By Mr. BURTON: A bill (H. R. 12605) for the relief of Edward Hart—to the Committee on Military Affairs.

By Mr. CANNON: A bill (H. R. 12606) to remove from the record of Theodore Harris the charge of desertion—to the Committee on Military Affairs.

By Mr. CARUTH: A bill (H. R. 12607) granting an increase of pension to John Heim—to the Committee on Pensions.

Also, a bill (H. R. 12608) granting an increase of pension to Thomas T. Hickey—to the Committee on Pensions.

By Mr. COOPER, of Indiana: A bill (H. R. 12609) to correct the military record of William B. Ellis—to the Committee on Military Affairs.

By Mr. CRISP: A bill (H. R. 12610) for the relief of W. H. Howard—to the Committee on Claims.

By Mr. EVANS: A bill (H. R. 12611) for the relief of Hiram N. Roberts, administrator—to the Committee on War Claims.

By Mr. GREENHALGE: A bill (H. R. 12612) to restore Harry Reade to his rank in the Army, etc.—to the Committee on Military Affairs.

Also, a bill (H. R. 12613) granting a pension to James H. Willey for loss of eyesight—to the Committee on Invalid Pensions.

By Mr. HENDERSON, of Illinois: A bill (H. R. 12614) granting a pension to Mary Williams—to the Committee on Pensions.

By Mr. HOUK: A bill (H. R. 12615) for the relief of G. D. Ashburn, of Clarkrange, Tenn.—to the Committee on War Claims.

Also, a bill (H. R. 12616) for the relief of Elijah Bomar, of Caldwell, Tenn.—to the Committee on War Claims.

Also, a bill (H. R. 12617) granting a pension to John Jones, of Fincastle, Tenn.—to the Committee on Invalid Pensions.

Also, a bill (H. R. 12618) for the relief of John Jones, of Campbell County, Tennessee—to the Committee on War Claims.

Also, a bill (H. R. 12619) for the relief of Thomas F. Lee, of Martin, Weakley County, Tennessee—to the Committee on Military Affairs.

Also, a bill (H. R. 12620) granting a pension to Seaborn Seagraves, of Clinton, Tenn.—to the Committee on Invalid Pensions.

By Mr. MCCORMICK: A bill (H. R. 12621) granting a pension to Benjamin F. Taylor, late chaplain Fifty-eighth Regiment Pennsylvania Volunteers—to the Committee on Invalid Pensions.

By Mr. MCKENNA: A bill (H. R. 12622) to extend the patent of De Witt C. Haskin—to the Committee on Patents.

By Mr. MILLIKEN (by request): A bill (H. R. 12623) for the relief of Nathaniel J. Coffin—to the Committee on Claims.

By Mr. O'NEILL of Pennsylvania: A bill (H. R. 12624) for the relief of Henry Frank—to the Committee on War Claims.

By Mr. PARRETT: A bill (H. R. 12625) granting a pension to John K. Thompson—to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 12626) granting a pension to Maria Owen, mother of Cornelius Owen, late private Company M, First New York Cavalry—to the Committee on Invalid Pensions.

By Mr. SMITH, of West Virginia: A bill (H. R. 12627) for the relief of John W. C. Miers and James I. Barrick—to the Committee on War Claims.

By Mr. STEWART, of Georgia: A bill (H. R. 12628) granting a pension to Mrs. Edelyn Spalding, widow of Charles Spalding—to the Committee on Pensions.

By Mr. TOWNSEND, of Colorado: A bill (H. R. 12629) to increase the pension of George W. Blake—to the Committee on Invalid Pensions.

Also, a bill (H. R. 12630) to increase the pension of William T. Boyle—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BOUTELLE: Petition of Gilbert T. Hadlock and others, of Islesboro, Me., in behalf of the passage of House bill 892, to promote the efficiency of the Life-Saving Service—to the Committee on Commerce.

Also (at request of Mr. REED, of Maine): Petition of L. C. Blake and others, citizens of Portland, Me., for increase of pay of members of the Life-Saving Service—to the Committee on Commerce.

By Mr. CHEATHAM: Petition of James Waiters, of Lewis County, North Carolina, praying reference of his war claim to the Court of Claims under the Bowman act—to the Committee on War Claims.

By Mr. CUMMINGS: Petition requesting that a pension be granted to the widow of General Duryee—to the Committee on Invalid Pensions.

By Mr. EVANS: Petition of Samuel H. Chapman, asking consideration as pensioner for services in Florida war, Mexican war, and war of the rebellion—to the Committee on Invalid Pensions.

By Mr. GROUT: Letter from a committee of the American Bar Association relative to relief of the Supreme Court—to the Committee on the Judiciary.

Also, petition of Patty Richardson, a Revolutionary widow, for increase of her pension—to the Committee on Pensions.

Also, a letter of S. R. Downey, attorney, Washington, D. C., dated December 12, 1890, inclosing evidence in case of Patty Richardson, and citing five out of twenty-three so far given an increase—to the Committee on Pensions.

By Mr. LEE (by request): Petition of Sarah L. and Mary E. Smith, only heirs at law of Sarah G. Smith, deceased, of Stafford County, Virginia, praying that their claim may be referred to the Court of Claims to find the facts, under the provisions of acts of March 3, 1883, and March 3, 1887—to the Committee on War Claims.

By Mr. LEWIS: Petition of Rachel D. Jones, of Marshall County, Mississippi, praying that her claim may be referred to the Court of Claims, under the act of March 3, 1883, to find the facts—to the Committee on War Claims.

By Mr. MCCORMICK: Petition of B. F. Shaffer & Son and sundry other persons, praying for the passage of a rebate amendment to the tariff bill—to the Committee on Ways and Means.

Also, petition of George Bubb & Sons and sundry other persons, praying for passage of same measure—to the Committee on Ways and Means.

By Mr. O'FERRALL: Petition of Mrs. Mary A. Hart, of Clarke County, Virginia, praying that her claim may be referred to the Court of Claims to find the facts—to the Committee on War Claims.

By Mr. TOWNSEND, of Colorado: Petition of George W. Blake, in favor of a bill to increase his pension—to the Committee on Invalid Pensions.

Also, petition and affidavits in favor of the increase of pension of William T. Boyle, of Company C, Fiftieth Regiment Illinois Volunteers—to the Committe on Invalid Pensions.

By Mr. WILSON, of Missouri: Petition of D. B. Browning, vice president, and John Bucher, secretary, of the Farmers and Laborers' Union, of Holt County, Missouri, and many other citizens of said county, in favor of the passage of the Butterworth option bill, the same being House bill 5353—to the Committee on Agriculture.

SENATE.

SATURDAY, *December* 13, 1890.

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

RICHARD F. PETTIGREW, a Senator from the State of South Dakota, appeared in his seat to-day.

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

JOHN I. DAVENPORT.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 8th instant, information in regard to the amounts paid by or in favor of John I. Davenport as an election supervisor, etc.; which, with the accompanying papers, was ordered to lie on the table and be printed.

MISSION INDIANS IN CALIFORNIA.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives asking for a conference with the Senate on the amendments of the House to the bill (S. 2783) for the relief of the Mission Indians in California.

Mr. DAWES. I move that the Senate nonconcur in the amendments of the House of Representatives and accede to the request for a conference.

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. DAWES, Mr. STOCKBRIDGE, and Mr. DANIEL were appointed.

PETITIONS AND MEMORIALS.

Mr. SAWYER presented memorials of citizens of Kenosha, Racine, and Beaver Dam, in the State of Wisconsin, remonstrating against the passage of any bankruptcy law; which were ordered to lie on the table.

Mr. VANCE presented a memorial of the Chamber of Commerce of Charlotte, N. C., remonstrating against the passage of the Conger lard bill; which was ordered to lie on the table.

Mr. PETTIGREW presented a memorial of 24 citizens of Watertown, S. Dak., remonstrating against the passage of any bankruptcy law; which was ordered to lie on the table.

Mr. PIERCE presented a petition of citizens of Morton County, North Dakota, praying for the re-enforcement, enlargement, and maintenance of Fort Abraham Lincoln; which was referred to the Committee on Military Affairs.

Mr. STOCKBRIDGE presented the memorial of D. S. Fox and other citizens of Flint, Mich., remonstrating against the passage of any bankruptcy bill; which was ordered to lie on the table.

He also presented a petition of Typographical Union, No. 99, of Jackson, Mich., praying for the passage of House bill 8046, restoring the rate of wages paid to Government printers prior to their reduction; which was ordered to lie on the table.

He also presented a petition of Fraternal Grange, No. 406, Patrons of Husbandry, of Shelby, Mich., praying for the passage of the Conger lard bill; which was ordered to lie on the table.

Mr. QUAY presented the petition of the Beaver Valley (Pa.) Typographical Union, No. 250, praying for the restoration of wages of the employés of the Government Printing Office to the rates paid previous to the reduction provided for by the act of March 3, 1877; which was ordered to lie on the table.

Mr. VEST. I present a memorial of the national convention of the representatives of the commercial bodies of the United States, calling attention to the present depressed financial condition of the country, the inadequacy of State laws, and the provisions of the Torrey bankrupt bill, and petitioning the Senate to consider at once and pass that measure.

This petition, which is not a lengthy document, is signed by a number of representative men from all the States of the United States; and whilst I do not commit myself to the arguments and views expressed in it, in view of the importance of the question and the high character of the memorialists, I move that the memorial be printed as a miscellaneous document, and lie on the table.

The motion was agreed to.

Mr. CULLOM presented memorials of citizens of Atlanta, Wenona, and Centralia, in the State of Illinois, remonstrating against the passage of any bankruptcy law; which were ordered to lie on the table.

Mr. TURPIE. I present the memorial of Samuel H. Chipman and other citizens of Indiana, remonstrating against the passage of a bankruptcy act, in which the memorialists state, amongst other things, that—

> the history of bankruptcy legislation shows that such laws are made only to be repealed, the reason being that the loophole thus afforded for escape from the natural consequences of reckless speculation and extravagance induces the extravagance and speculation requiring such relief.

The memorialists further state:

> The condition of the country is now, and bids fair to be in the future, so prosperous that there is no demand for such legislation, etc.

The bill is already upon the Calendar. I move, therefore, that the memorial lie on the table for the present.

The motion was agreed to.