

in the Navy from the 10th November, 1890, *vice* Chief Engineer G. R. Johnson, retired (subject to the examinations required by law).

Passed Assist. Engineer John Pemberton, to be a chief engineer in the Navy from the 19th November, 1890, *vice* Chief Engineer G. S. White, retired (subject to the examinations required by law).

Assist. Engineer Howard Gage, to be a passed assistant engineer in the Navy from the 19th November, 1890, *vice* Passed Assistant Engineers C. R. Roelker and John Pemberton, nominated for promotion.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 28, 1891.

UNITED STATES CONSULS

Lorin A. Lathrop, of California, to be consul at Bristol.
James M. Ayers, of Ohio, to be consul at Para.

ASSISTANT COMMISSIONER OF PATENTS.

Nathaniel L. Frothingham, of Massachusetts, to be Assistant Commissioner of Patents.

LAND COMMISSIONER.

Henry B. Atherton, of New Hampshire, to be land commissioner in Samoa.

MARSHAL.

William W. Doherty, of Massachusetts, to be marshal of the United States for the district of Massachusetts.

RECEIVER OF PUBLIC MONEYS.

Hill P. Wilson, of Kansas, to be receiver of public moneys at Wakeney, Kans.

REGISTER OF LAND OFFICE.

Robert Fisher, of Montana, to be register of the land office at Missoula, Mont.

SURVEYOR OF CUSTOMS.

Herman A. Hasslock, of Tennessee, to be surveyor of customs for the port of Nashville, State of Tennessee.

POSTMASTERS.

Benjamin F. Mann, to be postmaster at Bedford, in the county of Bedford and State of Pennsylvania.

Calvin G. Smith, to be postmaster at Wrightsville, in the county of York and State of Pennsylvania.

Marion F. Campbelle to be postmaster at Beaufort, in the county of Beaufort and State of South Carolina.

Charles B. McDonald, to be postmaster at De Smet, in the county of Kingsbury and State of South Dakota.

Joseph H. Woollen, to be postmaster at Mankato, in the county of Jewell and State of Kansas.

William A. Brock, to be postmaster at Bellville, in the county of Republic and State of Kansas.

Roger S. Baldwin, to be postmaster at Milford, Conn.

Orrin N. Lamson, to be postmaster at Southington, Conn.

John Tweedy, to be postmaster at Danbury, Conn.

John C. Feehan, to be postmaster at Wardner, Idaho.

Marcellus R. Robinson, to be postmaster at Spring Valley, Ill.

Joseph McCreary, to be postmaster at Coffeyville, Kans.

Cyrus T. Nixon, to be postmaster at Chanute, Kans.

Thomas N. Hart, to be postmaster at Boston, Mass.

John H. Sprague, to be postmaster at Ayer, Mass.

Austin F. Hanscom, to be postmaster at Willmar, Minn.

George N. Demond, to be postmaster at Gorham, N. H.

James G. Swafford, to be postmaster at Snohomish, Wash.

Charles F. Leicham, to be postmaster at Socorro, in the county of Socorro and Territory of New Mexico.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 28, 1891.

The House met at 11 o'clock a. m. Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

THE JOURNAL.

The SPEAKER. The Chair is informed by the Clerk that the Journal has not yet been prepared; that it has been a physical impossibility to present it this morning.

The Chair thinks the House was dividing on the motion of the gentleman from New York.

Mr. FARQUHAR. And that is now the pending question.

Mr. BRECKINRIDGE, of Kentucky. Has the Chair been able to ascertain at what time we may expect to have the Journal before the House?

The SPEAKER. The Chair is unable to state, but the clerks are at work upon it now.

THE SHIPPING BILL.

The SPEAKER. The pending question is on the motion of the gentleman from New York [Mr. FARQUHAR] that the House ask a con-

ference with the Senate on the shipping bill. The yeas and nays had been ordered upon the motion, and the Clerk will call the roll.

Mr. CRISP. Mr. Speaker, I submit that the pending question at the time of adjournment last night was on the conference report submitted by the gentleman from Wisconsin [Mr. CASWELL] on the land-court bill, the last vote on which disclosed the absence of a quorum.

The SPEAKER. The Speaker was not occupying the chair at the time and is not advised as to the exact condition.

Mr. REILLY. That is undoubtedly correct, Mr. Speaker.

Mr. FARQUHAR. That bill came in by consent—

The SPEAKER. The Chair understands that by some sort of unanimous consent the conference report came before the House and is now pending.

Mr. FARQUHAR. I presume that that was the only business pending at the time.

Mr. CASWELL. There was no quorum present, and I see no impropriety in suspending action on the conference report until this other matter is disposed of.

The SPEAKER. The conference report can be withdrawn, there having been no decision by the House upon it.

Mr. CASWELL. I do not see the necessity for withdrawing it, as it has progressed to a certain extent.

The SPEAKER. It can be presented at any time.

Mr. CASWELL. I will withdraw it then for the present.

The SPEAKER. The pending question is on the motion of the gentleman from New York [Mr. FARQUHAR], on which the yeas and nays have been ordered, and the Clerk will call the roll.

The question was taken; and there were—yeas 114, nays 83, not voting 132, as follows:

YEAS—114.

Adams,	Evans,	Miller,	Smith, W. Va.
Allen, Mich.	Ewart,	Milliken,	Smyser,
Baker,	Farquhar,	Moffitt,	Snider,
Belden,	Flick,	Moore, N. H.	Spinola,
Belknap,	Flood,	Morey,	Spooner,
Biggs,	Funston,	Morrill,	Stephenson,
Bingham,	Greenhalge,	Morrow,	Stockbridge,
Bliss,	Grosvenor,	Morse,	Struble,
Boutelle,	Groat,	Mudd,	Sweet,
Brewer,	Hall,	Niedringhaus,	Taylor, E. B.
Brosius,	Harmer,	O'Donnell,	Taylor, Ill.
Browne, Va.	Haugen,	O'Neill, Pa.	Taylor, Tenn.
Buchanan, N. J.	Hays, E. R.	Osborne,	Thomas,
Burrows,	Hitt,	Payson,	Thompson,
Burton,	Kennedy,	Perkins,	Townsend, Colo.
Butterworth,	Ketcham,	Peters,	Turner, Kans.
Cannon,	Kinsey,	Post,	Vandever,
Carter,	Knapp,	Raines,	Waddill,
Caswell,	La Follette,	Randall,	Wade,
Clark, Wyo.	Laidlaw,	Ray,	Walker,
Cogswell,	Lansing,	Reed, Iowa	Wallace, Mass.
Comstock,	Laws,	Rife,	Wallace, N. Y.
Cutcheon,	Lehlbach,	Rockwell,	Wheeler, Mich.
Darlington,	Lodge,	Rowell,	Wickham,
De Lano,	Mason,	Russell,	Williams, Ohio
Dingley,	McCormick,	Scull,	Wilson, Ky.
Dolliver,	McDuffie,	Sherman,	Yardley.
Dorsey,	McKinley,	Simonds,	
Dunnell,	Miles,	Smith, Ill.	

NAYS—83.

Alderson,	Cowles,	Lawler,	Perry,
Anderson, Miss.	Crisp,	Lee,	Pierce,
Bankhead,	Culbertson, Tex.	Lester, Ga.	Pindar,
Bland,	Davidson,	Lewis,	Quinn,
Boatner,	Dibble,	Magner,	Reilly,
Boothman,	Dickerson,	Malsh,	Rogers,
Breckinridge, Ark.	Dockery,	Martin, Tex.	Rowland,
Breckinridge, Ky.	Finley,	McClammy,	Sayers,
Brookshire,	Fithian,	McCreary,	Skinner,
Brown, J. B.	Flower,	McRae,	Springer,
Buehanan, Va.	Forman,	Mills,	Stewart, Tex.
Bunn,	Forney,	Moore, Tex.	Stone, Mo.
Carlton,	Geissenhainer,	Morgan,	Turner, Ga.
Caruth,	Heard,	Mutchler,	Vaux,
Catchings,	Henderson, N. C.	O'Ferrall,	Wheeler, Ala.
Chipman,	Herbert,	O'Neil, Mass.	Wike,
Claney,	Holman,	Outhwaite,	Wilcox,
Clements,	Hooker,	Owens, Ohio	Williams, Ill.
Cobb,	Kerr, Pa.	Parrett,	Wilson, W. Va.
Cooper, Ind.	Lane,	Paynter,	Yoder.
Cothran,	Lanham,	Peel,	

NOT VOTING—132.

Abbott,	Brunner,	Cummings,	Hatch,
Allen, Miss.	Buckalew,	Dalzell,	Hayes, W. I.
Anderson, Kans.	Bullock,	Dargan,	Haynes,
Andrew,	Bynum,	Dunphy,	Hemphill,
Arnold,	Caldwell,	Edmunds,	Henderson, Ill.
Atkinson, Pa.	Campbell,	Ellis,	Henderson, Iowa
Atkinson, W. Va.	Candler, Ga.	Enloe,	Hermann,
Banks,	Candler, Mass.	Featherston,	Hill,
Barnes,	Cheadle,	Fitch,	Hopkins,
Bartine,	Cheatham,	Fowler,	Honk,
Barwig,	Clarke, Ala.	Frank,	Kelley,
Bayne,	Clark, Wis.	Gear,	Kerr, Iowa
Beckwith,	Clunie,	Gear,	Kilgore,
Bergen,	Coleman,	Gest,	Lacey,
Blanchard,	Connell,	Gibson,	Langston,
Blount,	Cooper, Ohio	Gifford,	Lester, Va.
Bowden,	Covert,	Goodnight,	Lind,
Brickner,	Craig,	Grimes,	Mansur,
Brower,	Crain,	Hansbrough,	Martin, Ind.
Browne, T. M.	Culbertson, Pa.	Hare,	McAdoo,

McClellan,	Piekle,	Stahlnecker,	Tracey,
McComas,	Price,	Stewart, Ga.	Turner,
McCord,	Pugsley,	Stewart, Vt.	Turner, N. Y.
McKenna,	Quackenbush,	Stivers,	Van Schaick,
McMillin,	Reyburn,	Stockdale,	Washington,
Montgomery,	Richardson,	Stone, Ky.	Whitelaw,
Norton,	Robertson,	Stone, Pa.	Whiting,
Nute,	Rusk,	Stump,	Whitthorne,
Oates,	Sanford,	Sweney,	Wiley,
O'Neill, Ind.	Sawyer,	Tarsney,	Wilkinson,
Owen, Ind.	Seranton,	Taylor, J. D.	Wilson, Mo.
Payne,	Seney,	Tillman,	Wilson, Wash.
Pennington,	Shively,	Townsend, Pa.	Wright.

So the motion was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. CANDLER, of Massachusetts, with Mr. MANSUR.

Mr. THOMAS M. BROWN with Mr. KILGORE.

Mr. HENDERSON, of Iowa, with Mr. WALTER I. HAYES.

Mr. HOUK with Mr. ENLOE.

Mr. TILLMAN with Mr. ANDERSON, of Kansas.

Mr. COOPER, of Ohio, with Mr. WILKINSON.

Mr. STEWART, of Vermont, with Mr. OATES.

Mr. HANSBROUGH with Mr. STUMP.

On this vote:

Mr. KERR, of Iowa, with Mr. CLUNIE.

Mr. CULBERTSON, of Pennsylvania, with Mr. RICHARDSON.

Mr. ATKINSON, of Pennsylvania, with Mr. STONE, of Kentucky.

Mr. REYBURN with Mr. WASHINGTON.

Mr. CRAIG with Mr. MONTGOMERY.

Mr. TOWNSEND, of Pennsylvania, with Mr. TRACEY.

Mr. HENDERSON, of Illinois, with Mr. ABBOTT.

Mr. BOWDEN with Mr. MCADOO.

Mr. ATKINSON, of West Virginia, with Mr. ANDREW.

Mr. BANKS with Mr. WHITELAW.

Mr. MCCOMAS with Mr. TUCKER.

Mr. CLARK, of Wisconsin, with Mr. LIND, on the shipping bill. If present, Mr. CLARK would vote for the bill and Mr. LIND would vote against it.

Mr. ATKINSON, of West Virginia. Mr. Speaker, I am paired with the gentleman from Massachusetts [Mr. ANDREW]. If he had been present, I should have voted "ay."

The result of the vote was then announced as above recorded.

Mr. EZRA B. TAYLOR. Mr. Speaker, I have a conference report.

SUNDRY CIVIL BILL.

Mr. CANNON. Mr. Speaker, I hope before the gentleman presents that he will allow me to test the sense of the House as to putting the sundry civil bill into conference. It is important it should go, and if my friend will be kind enough to withhold his report, I desire to ask unanimous consent that the House may nonconcur in the Senate amendments to the sundry civil bill and assent to the request of the Senate for a conference.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent that the House nonconcur in the Senate amendments to the sundry civil bill and agree to the conference asked for.

Mr. CRISP. Mr. Speaker, I object.

Mr. CANNON. Then I move to suspend the rules and pass the following motion: That the House nonconcur in all the Senate amendments to the sundry civil appropriation bill and agree to the request of the Senate for a conference.

Mr. CRISP. Mr. Speaker, I demand a second.

Mr. CANNON. I hope the gentleman will consent that the second may be considered as ordered.

Mr. CRISP. No, I can not.

Mr. EZRA B. TAYLOR. Mr. Speaker, I gave way simply expecting—

Mr. CANNON. Well, we might as well understand what is the policy of our friends upon the other side.

Mr. EZRA B. TAYLOR. I withdraw the conference report.

On the demand for a second the Speaker appointed Mr. CANNON and Mr. CRISP as tellers.

The House divided; and there were—ayes 113, noes 58.

Accordingly a second was ordered.

The SPEAKER. The question is on the motion of the gentleman from Illinois [Mr. CANNON].

Mr. CRISP. Mr. Speaker—

The SPEAKER. The gentleman from Georgia desires to be heard. Mr. CRISP. Does the gentleman from Illinois desire to say anything first?

Mr. CANNON. I am content to hear the gentleman from Georgia.

Mr. CRISP. I merely ask if the gentleman from Illinois desires to say anything.

Mr. CANNON. Well, I have only this to say, Mr. Speaker. As all gentlemen know, this Congress expires at noon next Wednesday. The sundry civil bill has several hundred amendments. It is not practicable to consider them in Committee of the Whole, with the disposition that some of our friends on the other side, if not all of them, seem to have to take up time and delay business. Therefore I make this motion, which is the usual motion, especially at a short session, and gen-

erally at a long session near the close of the session. Necessity has driven the House, in all conferences since I have had knowledge here, to pursue this course in the event that the appropriation bills are to pass. This bill was considered in Committee of the Whole on its first passage. It comes back with Senate amendments and is subject to the point of order that will send it to the Committee of the Whole again. But now, as at all times heretofore, if that policy is to be pursued and the minority is not only to make all orderly and proper obstructions, but improper obstructions that they may take up time, it means now, as at all times heretofore, the failure of the bills.

Therefore I have sought for almost two days to have the usual course pursued, by unanimous consent to disagree to the Senate amendments, and send the matter to conference, expecting as heretofore, on matters of real difference of opinion, before there is an agreement, to submit the disagreement to the House of Representatives and receive its instructions touching its will on contested matters. If this course is to be pursued as to the legislative bill and later on as to the deficiency bill, we can close up the business of this session. If the contrary course is to be pursued I would be glad to know it this morning, and we can then make up our minds that owing to the policy of the other side the business of the session can not be closed, and we can govern ourselves accordingly, and let the responsibility rest where it ought to rest. I will reserve the remainder of my time.

Mr. CRISP. Mr. Speaker, the bill which the gentleman seeks to pass under the suspension of the rules is one of the general appropriation bills. Under our rules there is a provision for its consideration. It should be considered in Committee of the Whole. It is a privileged bill, and a motion might be made at any time to go into the Committee of the Whole for its consideration.

The gentleman from Illinois now moves to suspend the rules, nonconcur in the Senate amendments, and put the bill in conference. He does not give us any reason why that motion should prevail. The gentleman says if we on this side of the House do not give unanimous consent that this bill shall be considered in this way and the bill should fail, we will be responsible for an extra session. In reply, I would say it seems always possible for that side of the House, despite any apprehension of an extra session, to obtain as much time as necessary for those special and specific measures they desire to pass in addition to the general appropriation bills.

When we make reasonable resistance to appropriation bills, you say to us, "Gentlemen, you are imperiling an extra session, and will be responsible." If we yield to that suggestion, what is the result? You get unanimous consent to advance the appropriation bills, and immediately, against our protest and without our consent, you call up some measure to which this side of the House is bitterly opposed, and which we propose to resist to the utmost extremity! You have found time to give two days to the discussion of a bill granting great largesses from the Treasury to shipowners.

Are we responsible that these two days have not been devoted to the consideration of appropriation bills? You yet have some measures of a political and partisan character which you desire to present to the House; and when we, under the rules of the House, and under orderly procedure, refuse to give unanimous consent to advance the appropriation bills that you may reach such measures, you say to us, "If you gentlemen do not give unanimous consent there will be an extra session, and the responsibility for it will rest on you."

I deprecate an extra session as much as anyone; but, so far as I am concerned, if the other side propose to invoke at our hands unanimous consent to advance the appropriation bill, and then to use the time thus gained for the consideration of partisan measures I shall object, and let the extra session come and you will be responsible for it; we will not. [Loud applause on the Democratic side]. Now, there has never been a moment that we would not have met here in a friendly spirit any proposition that looked to determining and disposing of the legitimate business of this Congress.

Mr. CANNON. Will the gentleman yield to me right there?

Mr. CRISP. I will.

Mr. CANNON. The gentleman speaks somewhat in riddles, and I am curious to know what it is the gentleman speaks of at this time. He says if we insist on controlling the business in passing that which the majority desires, that that side of the House will obstruct all the appropriation bills. Now, what is it that the gentleman refers to? Let us be frank and candid, and let us ascertain what is meant.

Mr. CRISP. Now, just there is the error of my friend from Illinois, the presiding officer, and that side of the House. He says that the majority insist on controlling business, intimating and meaning thereby that the minority have no rights which the majority is bound to respect. Well, if you can so dispose of business why do you ask us to give you unanimous consent to do it? You can control the business of the House in accordance with your own rules.

But you do not do that. You use your partisan rules at certain times to pass certain obnoxious measures, and then when you have used the time in that way you come into the House and say: "If you do not give us unanimous consent there will be an extra session of Congress." Let me say to the gentleman if the House will devote the time from now until the 4th day of March at noon to the consideration of the general appropriation bills there will be no occasion for an

extra session. That business will be determined, and every one of those bills can have careful consideration.

Mr. CANNON. Let me ask the gentleman right there, because he wants to be candid, and I do, does he state the position of himself or is he speaking for his side?

Mr. CRISP. I only speak for myself.

Mr. CANNON. Then I withdraw the other. He means then the only business that shall be done during the remainder of this session of the House, or they would resort to all the rights that they have under the rules, shall be the enactment of the general appropriation bills practically.

Mr. CRISP. Why, I have never assumed to dictate to you what you shall do or shall not do.

Mr. CANNON. Will the gentleman state what he has in his mind that he does not want done; and let me be candid, too?

Mr. CRISP. What I have in my mind is your own proposition—that we shall give unanimous consent for that which of necessity you say must be done; and I complain that when we give such consent, you use the time thus acquired by our consent to force upon us the consideration of measures to which we decidedly object.

Mr. CANNON. What is the measure? Let us see if we can come to an understanding.

Mr. CRISP. Oh, I know the gentleman too well to suppose that I can make any agreement with him. I have been with him too long in this House—

Mr. CANNON. The gentleman will not even state his grievance.

Mr. CRISP. I know too well his methods. The gentleman knows very well that there is a way to make an agreement whenever it is desired to be done.

Mr. CANNON. The gentleman wants to be fair, and I think he did not intend to make the statement he has just made, and I call attention to it, namely, that he knows me too well to make any agreement with me. Does he know of any agreement ever made with me that has not been carried out?

Mr. CRISP. Oh, I disclaim the meaning which the gentleman suggests. What I said, or what I meant to say, was, that I knew the gentleman too well and his course in Congress too well to assume that he would make any agreement which would for one moment prevent a desperate and partisan majority from pressing those measures which they want to pass.

Mr. CANNON. What does my friend fear?

Mr. O'NEIL, of Massachusetts. The election cases.

Mr. CANNON. The contested-election cases?

Mr. O'NEIL, of Massachusetts. Yes.

Several MEMBERS on the Democratic side. The subsidy bill.

A MEMBER on the Republican side. The silver bill.

Mr. CANNON. Do I understand the position of the gentleman from Georgia [Mr. CRISP] to be that unless unanimous consent is given on this side of the House not to consider the contested-election cases the gentleman, so far as he can, will resort to all parliamentary tactics—

Mr. CRISP. Oh, not at all. You can not put me in that position. You are the gentlemen that are asking unanimous consent, not we. You are asking the favors of this side of the House.

Mr. CANNON. Not at all. I ask no favor of that side of the House.

Mr. CRISP. Yes. You ask unanimous consent. We simply stand upon our rights under the rules, while you come in and ask unanimous consent to violate the rules. You are in the attitude of a suppliant for favors.

Mr. CANNON. I am a suppliant for nothing except the grace of God. [Great laughter and confusion.]

Mr. CRISP. I believe, Mr. Speaker, in the infinite mercy of God, and I trust the gentleman's supplication will not be in vain. [Laughter.]

Mr. BUTTERWORTH. I trust my friend from Georgia will not refuse his consent to the last request of the gentleman from Illinois. [Laughter.]

Mr. CRISP. Oh, no. I have stated that in view of the infinite mercy of the Supreme Being the gentleman's supplication might be granted, and I trust it will.

Mr. BLAND. Mr. Speaker, I want to remind the House that the gentleman from Illinois [Mr. CANNON] who now asks unanimous consent to pass these appropriation bills practically without consideration is the very gentleman who, after stating the other day to the House that it was absolutely necessary that the deficiency bill should go to the Senate committee the next day, abandoned that deficiency bill for the subsidy bill, and gave up his time to looting the Treasury instead of passing the appropriation bills. That same bill for the looting of the Treasury is still in conference, and now after bringing in a special rule to pass that looting bill, and wasting the public time and the money of the people in that way, he comes here and asks this side of the House, while that bill is in conference, to make an arrangement which will give further room for the consideration of that bill and other objectionable measures.

Mr. CRISP. What time have I left, Mr. Speaker?

The SPEAKER. The gentleman has twelve minutes.

Mr. CRISP. I only want to say in conclusion to my friend from

Illinois that if he will move that the House resolve itself into Committee of the Whole for the consideration of this bill and other bills to which he has referred, he will find no difficulty before the time for adjournment to-day in having those bills regularly disposed of under the rules, so that they can go to a conference and be considered to-night by the conferees.

If there is any particular advantage to be gained by the gentleman so far as relates to the ultimate passage of this bill by nonconcurring just at this moment in the Senate amendments, it is not apparent to me. The probability is that no conference could be held on either of these bills until night, because Senators are engaged in the consideration of other appropriation bills. So that if you will devote this day to this legitimate business under the rules, I apprehend there will be no trouble whatever in disposing of these bills during the day.

It seems to me, therefore, the purpose of the gentleman in asking unanimous consent is not so much to further the passage of these bills as it is to further the passage of something else that is behind these bills. It is unjust, therefore, to say to the country that if we do not give the unanimous consent requested we are responsible for any results that may follow in the way of failure of these bills. You have it in your power by the motion I have indicated to devote this day to the consideration of these bills; and I think I hazard nothing in saying that by night you can put these bills into conference by acting on the amendments and concurring or nonconcurring as the case may be.

Mr. CANNON. I would like to ask the gentleman one question. This is a motion to suspend the rules. Does my friend intend to oppose it and does that side of the House so intend? I am curious to know.

Mr. CRISP. Well, Mr. Speaker, I can not speak for this side of the House, of which I am only a humble member.

Mr. CANNON. But what is my friend's view? When he states that, I will judge of the disposition of his side of the House?

Mr. CRISP. My own view is that I am going to oppose it—

Mr. CANNON. That answers my question.

Mr. CRISP. For this reason: While I can realize that there might be a situation where it would be necessary to pass one of these bills under a suspension of the rules (I have voted for such a motion since I have been in Congress), I do not understand that the present situation is such as to demand it. That is the difference between us. I do not understand that the present situation demands it, because during the day these bills can be regularly considered and put in conference under the rules of the House. Therefore, there is no necessity for this motion so far as the passage of these bills is concerned; and if there be any necessity it relates to your desire to pass something that is behind these bills—not these bills themselves.

Mr. Speaker, I reserve whatever time I may have remaining.

Mr. CANNON. Mr. Speaker, a single word and then I am ready for a vote. I want to say that never in the history of any Congress of which I have been a member, or of which I have knowledge, has there been such persistent delay and obstruction attempted upon appropriation bills as by the minority during this Congress. The sundry civil bill, the legislative bill, the deficiency bill, and other bills have substantially taken weeks for their consideration in the Committee of the Whole and the House, where heretofore at short sessions they have not taken days or hours. The other side of the House has been instant in season and out of season in saying: "We will obstruct, not for the purpose of securing the bona fide consideration of appropriation bills and other legislation, but for the purpose of obstruction, unless the majority side of the House will abandon the consideration of legislation that it believes is for the best interest of the country—legislation that it believes in and desires to consider and enact."

We have replied that we are responsible and accept the responsibility. They have still, however, continued obstruction. And now on the Saturday before the Wednesday when this Congress must close, when it is patent to everybody that under the ordinary rules of this House the sundry civil bill, the legislative bill, and other bills can not be considered, but must be acted on either by unanimous consent or by a suspension of the rules or under a special order, the gentleman comes in and says: "You shall send these bills to the Committee of the Whole, because we will oppose a suspension of the rules and withhold unanimous consent."

Another gentleman, perhaps more frank—I will not say that, but more outspoken—than the gentleman from Georgia, says that the election cases which are upon the Calendar are the matters that are in the way of their voting to suspend the rules or give unanimous consent.

Mr. O'NEIL, of Massachusetts. One of the matters.

Mr. CANNON. "One of the matters." That amounts to insisting that there can be no suspension of the rules and no unanimous consent unless this side of the House says that the election cases or any other order of business that any man on that side may desire to antagonize shall stand aside at the demand of a small minority.

Speaking for myself, I accept that public notification which has been made by the minority expressly and by action a hundred times before; and I say for myself that if the rules can not be suspended and the ordinary course pursued touching this and other bills at this stage of the session, then we lay them aside, because it is impossible to consider them in Committee of the Whole except by unanimous consent,

and complete their consideration—we lay them aside and proceed under the rules of this House to dispose of that order of business which we believe ought to be done and which the majority desires to do. [Applause on the Republican side. Cries of "All right!" on the Democratic side.]

Mr. CRISP. Just a word in reply to the gentleman from Illinois. I am not sure but that his last statement makes plain the purpose and intention of the gentleman and the side he represents.

Mr. OUTHWAITE. It is an honest confession.

Mr. CRISP. But the defect in his whole argument is this: From the beginning of this Congress, whenever it was necessary for the majority to accomplish some particular purpose they have disregarded precedents, they have disregarded ancient customs, they have brought in special orders changing the standing rules; and whenever it is their interest to conform to ancient usage, then they turn to us and say, "You gentlemen must not depart from what has been the usual custom."

You have never during this Congress conformed to the "ancient rule" and the ancient methods of which you speak. You have absolutely destroyed the rights of the minority; you have changed the character of the body of which you are members until you have held it up to the just and merited condemnation, contempt, and ridicule of the American people. [Applause on the Democratic side.] You have done that, and now you come here and ask us, in accordance with what you allege is ancient custom, to give you unanimous consent. In what condition are you to make that appeal to this side of the House? I am frank to say that if in my judgment the necessities of the case required it, if these bills, in order to enable them to become laws before the end of the session, should go into conference to-day, I would not object. But that is not the situation and can not be made so to appear.

The gentleman has a larger experience in this House, larger than myself, and he knows well enough, I think, that if these bills go into conference even as late as Monday there will still be plenty of time for agreement and to dispose of them. So there seems to be some other underlying motive. The truth of the matter seems to be just this: That you appeal to this side of the House to give you unanimous consent to speedily dispose of these measures, in order that you may get them out of the way and go to some other matter which, as the gentleman expresses it, the majority may determine to be proper.

Now, Mr. Speaker, I have said nothing whatever about the election cases in this discussion. The gentleman from Illinois himself and some other gentlemen have referred to them. But suppose I had alluded to them, or suppose I allude to them now; what then? Suppose I show to the gentleman from Illinois and to the country that in August last the majority of the Committee on Elections reported adversely in the cases of two sitting Democrats? Suppose that I should show that from that day to this no effort has been made to call up these cases and dispose of them, although the majority has had complete control of the House? Two or three months in the last session, three months in this, and no motion for their consideration.

Suppose I should show to the country that the purpose of the majority is to call them up at this late hour, permitting practically no debate upon them, and ask the House to unseat the sitting Democrats.

Would not the country, would not any fair-minded man, justify resistance? If these cases had been determined by the committee only recently, or just now, there might be some excuse for such course. But since August last these cases have been on the Calendar. Any time you might have taken them up; you might have given four hours' debate upon each one of them. Will you give four hours' debate now on each of the cases? You know that the time remaining would not permit of it.

Mr. ROWELL. Will the gentlemen answer a question?

Mr. CRISP. I will, if it be a proper one.

Mr. ROWELL. Is it not true that when we did call these election cases, instead of debating, as the gentleman suggests that side wanted to do, we were engaged day after day in attempting to get a quorum of the members here to decide upon them?

Mr. CRISP. Why, Mr. Speaker, I will tell you what is true. That side of the House decided one case without permitting a Democrat to open his mouth in defense of the sitting member, although the sitting member himself was present and desired to be heard. [Applause on the Democratic side.]

Mr. ROWELL. Will my colleague allow me to interrupt him to say that there was but one Democrat on the floor of the House, and that was after a number of days had been expended on another case.

Mr. CRISP. And not only was that true, Mr. Speaker, but in another case following that, I think, without a quorum, and I believe that I am telling the honest truth when I say it, without a quorum present, because the Speaker declined to ascertain by tellers whether there was a quorum present, you turned out a sitting member who had a certificate from his governor, who had been sworn in as a member of this House, without a word of discussion, without reading the report in the case, almost without reading, I believe, the resolution that unseated him. No question of his right was permitted to be discussed; not one word did you hear in his defense; and not only did no member of that side of the House protest against such outrage, but there came a great clamor from those impartial, upright, honest judges in elec-

tion cases of "Give us another!" "Give us another!" "Give us another!" [Applause on the Democratic side.]

You turned him out inside of three minutes, and now in the closing hours of this session you ask us to give you unanimous consent to transact the necessary business of the session that you may have time for a repetition of that outrage on the people of this country. [Applause on the Democratic side.]

The SPEAKER. The time of the gentleman has expired.

Mr. McMILLIN. Will the gentleman from Georgia allow me to suggest that the vote was a little too close on the subsidy question.

Mr. CRISP. That may exercise some influence. They probably need more votes.

Mr. CANNON. Now, Mr. Speaker, in conclusion, and in reply to the gentleman from Georgia, I have no desire to speak of the election cases to which the gentleman has referred. The record of this Congress shows what the transactions were. For a week's time we sought to have a quorum present. Every Democrat on the other side withdrew from the House, including the gentleman from Georgia himself, I believe, with a single, solitary exception.

At the end of a week we got our quorum, and now the gentleman complains that, having our quorum, they had no discussion, when there was but one man of them here to do the discussing, and he did not speak.

Mr. O'FERRALL. Will the gentleman from Illinois allow me to interrupt him for a moment?

Mr. CANNON. Yes, briefly, if you can.

Mr. O'FERRALL. The history of that case—

Mr. CANNON. I do not yield for a speech. Now, Mr. Speaker, a single word in conclusion—

Mr. O'FERRALL. I ask the gentleman to yield to me for a question.

Mr. CANNON. I will be courteous to the gentleman.

Mr. O'FERRALL. Is not this the fact, that not a Democrat left this House until the previous question was ordered, cutting off every Democrat from speaking in behalf of the contestee?

Mr. ROWELL. There was not a Democrat on the floor of the House save yourself when the previous question was ordered, and you did not avail yourself of the privilege of the twenty minutes allow under the rule.

Mr. CANNON. I can not yield for discussion.

Mr. O'FERRALL. Mr. Speaker, every Democrat was in his seat here when the previous question was ordered.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] declines to yield.

Mr. O'FERRALL (continuing). And it was not until the previous question was ordered, shutting off debate, that the Democrats retired from this House—

The SPEAKER. The gentleman from Virginia [Mr. O'FERRALL] is out of order.

Mr. CANNON. I say, in conclusion, the gentleman practically notifies us that these bills can not be concluded until the election cases are disposed of, either by our agreeing not to call them up, or by their disposition otherwise. That being the case, we do what necessity compels us to do at this time, and proceed to dispose of them in one way or the other, either by refusal to consider, or by considering those cases.

And now, as a last word upon this motion, I desire to say, in the effort of the majority to transact the business of legislation under the Constitution in the past I glory. The gentleman says we have been rebuked for it. I deny it; but I would rather be rebuked a thousand times and appeal again upon a just cause in the defense of the right of the majority to rule than sleep

On flowery beds of ease

from victories won by fraud, misrepresentation, or cowardice. [Applause on the Republican side and manifestations of derision on the Democratic side.]

The SPEAKER. The question is on the motion of the gentleman from Illinois [Mr. CANNON].

The question was taken; and the Speaker announced that he was in doubt and would order a division.

On the division there were—ayes 128, noes 112.

The SPEAKER. Two-thirds not having voted in the affirmative, the motion is lost. The gentleman from Illinois—

Mr. CRISP. I demand the yeas and nays.

Mr. CANNON. The gentleman from Illinois has been recognized.

Mr. MILLS. The yeas and nays have been demanded.

The yeas and nays were ordered.

The question was taken; and there were—yeas 164, nays 120, not voting 63; as follows:

YEAS—146.

Adams,	Belden,	Brosius,	Cannon,
Allen, Mich.	Belknap,	Brower,	Carter,
Arnold,	Bingham,	Browne, Va.	Caswell,
Atkinson, Pa.	Bliss,	Buchanan, N. J.	Cheadle,
Atkinson, W. Va.	Boothman,	Burrows,	Cheatham,
Baker,	Boutelle,	Burton,	Clark, Wyo.
Banks,	Bowden,	Butterworth,	Cogswell,
Bayne,	Brewer,	Caldwell,	Connell,

Craig,	Hill,	Niedringhaus,	Stockbridge,
Culbertson, Pa.	Hitt,	O'Donnell,	Stone, Pa.
Cutcheon,	Ketcham,	O'Neill, Pa.	Struble,
Dalzell,	Kinsey,	Osborne,	Sweet,
Darlington,	Knapp,	Payne,	Sweeney,
De Lano,	Lacey,	Paysou,	Taylor, Ill.
Dingley,	La Follette,	Peters,	Taylor, Tenn.
Dolliver,	Laidlaw,	Post,	Taylor, E. B.
Dorsey,	Lansing,	Pugsley,	Taylor, J. D.
Dunnell,	Laws,	Raines,	Thomas,
Evans,	Lehlbach,	Randall,	Thompson,
Ewart,	Lind,	Ray,	Townsend, Colo.
Farquhar,	Lodge,	Reed, Iowa	Townsend, Pa.
Featherston,	Mason,	Reyburn,	Turner, Kans.
Finley,	McComas,	Rife,	Vandever,
Flick,	McCormick,	Rockwell,	Van Schaick,
Flood,	McDuffie,	Rowell,	Waddill,
Frauk,	McKenna,	Russell,	Wade,
Funston,	McKinley,	Scull,	Walker,
Gear,	Miles,	Sherman,	Wallace, Mass.
Gest,	Miller,	Simonds,	Wallace, N. Y.
Greenhalge,	Milliken,	Smith, Ill.	Wheeler, Mich.
Grosvenor,	Moffit,	Smith, W. Va.	Wickham,
Grout,	Moore, N. H.	Snyser,	Williams, Ohio
Hall,	Morey,	Snider,	Wilson, Wash.
Harmer,	Morrill,	Springer,	Wright,
Haugen,	Morrow,	Stephenson,	Yardley.
Hays, E. R.	Morse,	Stewart, Vt.	
Hermann,	Mudd,	Stivers,	

NAYS—120.

Abbott,	Cooper, Ind.	Herbert,	Paynter,
Alderson,	Cothran,	Holman,	Pennington,
Anderson, Miss.	Cowles,	Hooker,	Perry,
Andrew,	Crain,	Kerr, Pa.	Pierce,
Bankhead,	Crisp,	Lane,	Reilly,
Barnes,	Culbertson, Tex.	Lanham,	Richardson,
Barwig,	Cummings,	Lawler,	Rogers,
Biggs,	Dargan,	Lee,	Rowland,
Blanchard,	Davidson,	Lester, Ga.	Rusk,
Bland,	Dibble,	Lester, Va.	Sayers,
Blount,	Dickerson,	Lewis,	Seney,
Boatner,	Dookery,	Maish,	Skinner,
Breckinridge, Ark.	Dunphy,	Martin, Tex.	Spinola,
Breckinridge, Ky.	Edmunds,	McClammy,	Stewart, Tex.
Brickner,	Ellis,	McClellan,	Stockdale,
Brookshire,	Fitch,	McCreary,	Stone, Mo.
Brunner,	Fithian,	McMillin,	Tarsney,
Buchanan, Va.	Flower,	McRae,	Tillman,
Bunn,	Forney,	Mills,	Tucker,
Bynum,	Geary,	Montgomery,	Turner, Ga.
Campbell,	Geissenhainer,	Moore, Tex.	Vaux,
Candler, Ga.	Gibson,	Morgan,	Washington,
Carlton,	Goodnight,	Mutchler,	Wheeler, Ala.
Caruth,	Grimes,	Norton,	Whitelaw,
Catchings,	Hare,	Oates,	Whiting,
Chipman,	Hatch,	O'Ferrall,	Wike,
Clancy,	Haynes,	O'Neil, Mass.	Willcox,
Clements,	Heard,	Outhwaite,	Williams, Ill.
Clunie,	Hemphill,	Owens, Ohio	Wilson, Mo.
Cobb,	Henderson, N. C.	Parrett,	Wilson, W. Va.

NOT VOTING—63.

Allen, Miss.	Enloe,	Mansur,	Sawyer,
Anderson, Kans.	Forman,	Martin, Ind.	Seranton,
Bartine,	Fowler,	McAdoo,	Shively,
Beckwith,	Gifford,	McCord,	Spooner,
Bergen,	Hansbrough,	Nute,	Stahlnecker,
Browne, T. M.	Hayes, W. L.	O'Neill, Ind.	Stewart, Ga.
Brown, J. B.	Henderson, Ill.	Owen, Ind.	Stone, Ky.
Buckalew,	Henderson, Iowa	Peel,	Stump,
Bullock,	Hopkins,	Perkins,	Tracey,
Candler, Mass.	Houk,	Pickler,	Trener, N. Y.
Clarke, Ala.	Kelley,	Pindar,	Whitthorne,
Clark, Wis.	Kennedy,	Price,	Wiley,
Coleman,	Kerr, Iowa	Quackenbush,	Wilkinson,
Comstock,	Kilgore,	Quinn,	Wilson, Ky.
Cooper, Ohio	Langston,	Robertson,	Yoder.
Covert,	Magner,	Sanford,	

So the House refused to suspend the rules, two-thirds not voting therefor.

The Clerk announced the following additional pairs:
 Until further notice:
 Mr. WILSON, of Kentucky, with Mr. STONE, of Kentucky.
 For this day:
 Mr. KENNEDY with Mr. YODER.

APPOINTMENT OF CONFEREES.

The SPEAKER announced as conferees on the bill S. 3738 Mr. FARQUHAR, Mr. DINGLEY, and Mr. SPRINGER.

THE LATE GENERAL WILLIAM T. SHERMAN.

The SPEAKER. The Chair, by the consent of the House, will submit the following communication from the family of General William T. Sherman.

The Clerk read as follows:

No. 75 WEST SEVENTY-FIRST STREET,
 New York, February 26, 1891.

The family of General Sherman, deeply moved by your warm testimonial of sympathy and by your high encomium of their father, desire to offer to the House of Representatives of the United States this grateful acknowledgment of the high honor paid to the memory of General Sherman by the resolutions and the action of your august assembly.

In behalf of the family.

THOMAS EWING SHERMAN.
 P. T. SHERMAN.

The SPEAKER. Without objection, the communication will be printed in the RECORD.

There was no objection.

ENROLLED BILLS SIGNED.

The SPEAKER. The Chair desires to present a report from the Committee on Enrolled Bills. If there be no objection the titles will be printed in the RECORD without being read. The Chair hears no objection.

Mr. KENNEDY, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the following titles: when the Speaker signed the same:

- A bill (H. R. 9599) for the relief of R. F. Balke, as Mellwood Distillery;
- A bill (H. R. 10787) to prohibit the granting of liquor licenses within one mile of the Soldiers' Home;
- A bill (H. R. 12152) for the relief of Henry L. Morey;
- A bill (H. R. 12782) making appropriation for the naval service for the fiscal year ending June 30, 1892, and for other purposes;
- A bill (H. R. 11003) to detach the county of Logan, in the State of Ohio, from the northern and attach it to the southern judicial district of said State;
- A bill (S. 395) for the relief of Sarah K. McLean, widow of the late Lieut. Col. Nathaniel H. McLean;
- A bill (S. 421) for the relief of the legal representatives of David Walter Jones;
- A bill (S. 707) for the allowance of the claim of George Brown for stores and supplies taken and used by the United States Army, as reported by the Court of Claims under the provisions of the act of March 3, 1887;
- A bill (S. 1160) for the relief of George W. Quintard and George E. Weed, assignees of John Roach, deceased;
- A bill (S. 1395) to amend sections 2275 and 2276 of the Revised Statutes of the United States, providing for the selection of lands for educational purposes in lieu of those appropriated for other purposes;
- A bill (S. 4724) for the relief of John P. Downing, first paying teller in the subtreasury at Boston, Mass.; and
- A bill (S. 5037) to authorize the building of a railroad bridge at Little Rock, Ark.

WITHDRAWAL OF PAPERS.

Mr. MORGAN, by unanimous consent, obtained leave to withdraw from the files of the House, by leaving copies, the papers in the case of James Sims, accompanying the bill (H. R. 5497) for the relief of James Sims.

Mr. SMITH, of Illinois, by unanimous consent, obtained leave to withdraw from the files of the House, by leaving copies, the papers in connection with the bill (H. R. 10267) for the relief of the owners and crews of the American whaling vessels Midas, Progress, Lagoda, Daniel Webster, and Europa, said bill having become a law.

JURISDICTION OF THE UNITED STATES COURTS.

Mr. EZRA B. TAYLOR. I present a conference report.
 The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9014) to define and regulate the jurisdiction of the courts of the United States, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:
 That the House recede from its disagreement to the amendments of the Senate, and agree to the same.

EZRA B. TAYLOR,
 L. B. CASWELL,
Managers on the part of the House.
 WILLIAM M. EVARTS,
 GEORGE F. HOAR,
 JAMES L. PUGH,
Managers on the part of the Senate.

The statement of the House conferees is as follows:

The effect of the conference is to require the appointment of nine circuit judges, one in each circuit, instead of seventeen, as provided in the House bill, and to create a court of appeals, consisting of two circuit judges and the Chief Justice or associate justice of the Supreme Court assigned to the circuit, while the House bill relieved the justice from this duty. The circuit courts retain original jurisdiction for the trial of causes, while the House bill confines original trials to the district courts. No causes now on the calendar of the Supreme Court are to be remanded to the court of appeals, as provided for in the House bill.

E. B. TAYLOR,
 L. B. CASWELL,
Managers on the part of the House.

Mr. ROGERS. I wish the Clerk to read the last paragraph of the statement of the House conferees again.
 The paragraph was again read.

Mr. EZRA B. TAYLOR. Mr. Speaker, in view of the fact that the discussion upon this bill has been very elaborate, I now demand the previous question.

The SPEAKER proceeded to put the question.

Mr. ROGERS. Mr. Speaker, one minute. I ask the attention of the gentleman from Ohio. Does the gentleman propose to limit the

little talk of those who may desire to make some remarks on this side to twenty minutes? I do not think we will want more than thirty minutes. The gentleman from Alabama [Mr. OATES], the gentleman from Texas [Mr. CULBERSON], and myself desire to have a very brief time to state what we think about the matter; and I hope the gentleman will not cut us down to twenty minutes.

Mr. EZRA B. TAYLOR. In view of the discussion that has been had on the subject, it seems to me that that would be sufficient.

The SPEAKER. The time could be enlarged by the House to thirty minutes on a side.

Mr. ROGERS. I think we could get along with that.

The SPEAKER. Is there objection to the proposed enlargement of the time? The Chair hears none, and the previous question will be considered as ordered, with thirty minutes for debate on each side, the gentleman from Arkansas [Mr. ROGERS] or the gentleman from Texas [Mr. CULBERSON] will be recognized to control the time on that side.

Mr. CULBERSON, of Texas. I am in favor of the proposition.

Mr. ROGERS. I did not understand the announcement of the Chair as to the division of the time.

The SPEAKER. It is to be thirty minutes on each side.

Mr. ROGERS. Who is to control it?

The SPEAKER. The Chair thinks the gentleman from Arkansas is entitled to control it on that side, but the Chair is a little embarrassed. Does the Chair understand that both gentlemen are on the same side of the question?

Mr. ROGERS. No, sir.

The SPEAKER. Then the Chair recognizes the gentleman from Arkansas.

Mr. ROGERS. Mr. Speaker, I hope that while I occupy the floor I may have the attention of the House, and particularly the attention of the gentleman from Ohio.

The SPEAKER. Will the gentlemen behind the screens please cease conversation? Will the Sergeant-at-Arms please request gentlemen behind the screens to cease conversation or retire to the cloak-room?

Mr. ROGERS. Mr. Speaker, if I understood the conference report, it states that causes on the Supreme Court docket will be certified to the court of appeals created by that bill.

Mr. CASWELL. That is not correct, I will say to the gentleman from Arkansas. The Clerk has not interpreted my language aright.

Mr. ROGERS. I thought that was an error. Now I desire to address myself to the bill.

Mr. Speaker, no member upon the floor of the House, I think, has been a more earnest advocate of [a reorganization of the Federal judiciary system, and the remuneration of its judges, than I have during the past eight years of my Congressional life; so that the observations I shall now make I make from the most friendly standpoint to the object sought to be attained by legislation on this subject.

The primary motive, or rather the primary consideration or object of legislation upon this point was to relieve the Supreme Court of the United States, whose docket is now congested by some seventeen hundred cases, or more, perhaps, than four years of consecutive work if no other business was added to it. I say that was the primary object. Incidental to that object were two other objects. One was the divorcement of the district from the circuit courts and the divorcement of the Supreme Court from the inferior courts; in other words, that we should have a system rather than a medley; that the great reservoir of original jurisdiction should rest in the district courts of the United States; that the circuit courts should be abolished, and an intermediate court of appeals established between the district courts and the Supreme Court, whose appellate jurisdiction should be final, and thereby limit the appellate jurisdiction of the Supreme Court and give it consequent relief.

I am sorry to say this conference report defeats all of these objects; every single one of them. As I said, there are now seventeen hundred cases, or somewhere between fifteen and seventeen hundred cases, on the Supreme Court docket. By the terms of this bill every one of these cases will remain on that docket to be finally determined; and that court will have to do four years of consecutive hard work to get rid of the docket now pending in that court.

This is not only true, but here, by the terms of this bill, the congestion of the docket is to be intensified to an extent that no one of us can foresee at this time. By the terms of the fifth section of the bill appeals are granted from the district and circuit courts of the United States in all cases of capital or other infamous crimes.

An infamous crime has been decided by the Supreme Court of the United States to be any offense which may be punished by imprisonment at hard labor in the penitentiary. The effect of this provision of the bill will be to extend the appellate jurisdiction of the Supreme Court of the United States over almost the entire criminal code of the United States, involving a large number of internal-revenue cases; involving a large number felonies from the district courts at Fort Smith, Ark., and at Paris, Tex., and other courts exercising exclusive jurisdiction over certain defined territory of the United States. It likewise will embrace almost all the violations of the postal service. It will likewise embrace a very large number of counterfeiting cases.

From every Federal tribunal in this country these infamous offenses may be taken by writs of error to the Supreme Court of the United States. Therefore, not only is the primary consideration for which legislation was sought defeated, but the evil which was attempted to be remedied is intensified, I think I am safe in saying, by at least from three hundred to one thousand cases annually which will be carried to the Supreme Court of the United States from this great domain over which it has never heretofore exercised any appellate jurisdiction. The result will be that, independent of the civil cases which have the right of appeal or writ of error from the district and circuit courts of the United States to the Supreme Court under the terms of the bill, and in which field the number of cases is greatly diminished, by the bill this new criminal appellate jurisdiction which is imposed upon the Supreme Court will more than overbalance the number of cases which are cut off by the creation of the intermediate courts of appeal. I think I have made that point clear, or, if I have not, I have been unfortunate.

Mr. FRANK. You have made it clear; but the question is whether the objection you raise, that this will clog the Supreme Court and give it more business than it can handle, is not counterbalanced by the consideration of the justice of giving it this jurisdiction on appeal.

Mr. ROGERS. Oh, I think not. I think that this intermediate court of appeal, which is to be composed of three judges who will give it equal dignity with any supreme court tribunal in the land, is the place where this right of appeal should have gone.

Mr. FRANK. That was the original intention in the House bill.

Mr. ROGERS. I know that was the original intention, but the Senate bill does not do that, and in that regard it is grossly defective and vicious. Now, Mr. Speaker, I revert. The circuit and district courts of the United States are retained, with their present jurisdiction, by the terms of this bill. There is added one circuit judge in each circuit, so that we shall have two circuit judges in each of eight circuits and three in the New York circuit.

A vice of the present organization of the Federal judicial system is that there are eight circuit judges exercising original jurisdiction, and exclusive jurisdiction almost, over the great domain of civil litigation of all classes and kinds. These eight circuit judges are compelled, in the discharge of their duties, to gallop all over the country, consuming a large proportion of their time in travel. To illustrate, take the eighth circuit, composed of Nebraska, Minnesota, Iowa, Missouri, Kansas, Arkansas, and North and South Dakota, all this vast domain, extending almost from the Gulf to Canada, is now in one circuit, presided over by a single circuit judge, and of course his time is very largely absorbed in travel, while his duties are discharged by the district judges.

Now, our bill sought to abolish the circuit courts as courts of original jurisdiction and thereby get rid of that evil, and confer all original jurisdiction on the district courts; then add one or more circuit judges to each circuit, and organize with these circuit judges one circuit court of appeals with appellate jurisdiction; but this bill intensifies the evil by assigning two circuit judges to each circuit to do the same kind of service, and gallop all over the country in the old way. To illustrate further the vice of this system, I think I speak within bounds when I say as to the four courts in my own State that no circuit judge or associate justice of the Supreme Court of the United States has ever appeared at any of them but one, and I think I may safely add that no circuit judge and no associate justice of the Supreme Court ever in his life, at any one time, spent more than two weeks in the State, and sometimes they do not go there for one, two, or three years. The fact is, that the whole circuit-court system as organized now and as proposed by this bill is vicious and a failure.

But, Mr. Speaker, I now invite your attention to another vice in this system. These nine intermediate appellate courts are organized by this bill, and their first terms are to be held at such times as the court may appoint; but when these nine courts meet in their nine respective places there will not be a single case upon their docket to be tried. These great tribunals, with all the dignity of the supreme court of a great State, are organized and directed to go to hold court, and not a case to be heard in any one of them; and this, too, when 1,700 cases are on the Supreme Court docket, three-fourths of which should be certified to them for trial; but there is no provision on this bill that those cases which by the terms of the bill itself in future shall go to these tribunals by writ of error or appeal shall be certified down for their immediate consideration.

Then, Mr. Speaker, by the terms of this bill there are created nine additional officers—marshals of the United States. There is no necessity whatever for the appointment of a single additional marshal, because the marshals already authorized where these courts are held could discharge every duty required by the terms of this bill. That, however, is a defect that may readily be cured.

And, Mr. Speaker, while I make these objections to the bill, candor compels me to say that I think the only exigency which would have compelled the majority of the House conferees to consent to this bill is the fact that the parliamentary status and business of the two Houses is such that it was thought impossible otherwise to get through a bill of any description, and, secondly, because the vices which I have pointed out are of such a character as will compel Congress in a short time to

adopt three or four amendments such as I have suggested for the purpose of securing the relief which was the only motive and almost the sole purpose of the legislation sought.

I have now, in the brief time allowed me, tried to point out the reasons which compelled me to dissent from this conference report, and which will induce me to vote against it. In short, and finally, the bill gives no relief to the Supreme Court now, and it is exceedingly doubtful whether in its present condition it ever will. Indeed, it is probable that it will result in an increase of its already overburdened docket.

Second. It perpetuates the vice of the present system, in not abolishing the circuit courts as courts of original jurisdiction, and condemns eighteen instead of nine circuit judges to a life of travel, rather than a life of judicial usefulness.

Third. It makes the circuit courts of appeal, instead of being organized, stable, and independent tribunals, with one set of judges each—it makes of them courts whose judges are constantly shifting and changing, because no judge can sit in the trial of any cause in the circuit court of appeals wherein he had presided in the court below, whether he be a circuit or district judge.

Fourth. It does not disassociate the Chief Justice and associate justices of the Supreme Court of the United States from the circuit court work.

Fifth. It converts our great constitutional court, the Supreme Court of the United States, into an appellate court, to try not capital cases only, but criminal cases of almost every class, except misdemeanors of the lowest grades.

Finally, it provides for nine United States marshals, for whom there is no earthly use. If these evils were corrected, I would, from a sense of profound duty, even at the sacrifice of parting company with my political associates, support and vote for this measure. As the bill is now constructed I would not vote for it under any circumstances, believing it is better to have no legislation rather than legislation which, while it corrects some evils, intensifies others, and fails utterly to correct the one primarily sought to be corrected, and concerning which the complaints are general, severe, and of long standing; namely, relief for the Supreme Court of the United States.

Mr. EZRA B. TAYLOR. Mr. Speaker, this bill has been under consideration for a great many years. Everybody understands thoroughly that there was need for some legislation on this question. I say again frankly and very cheerfully that nobody, so far as I remember, has given more patient and thorough attention to this matter than the gentleman from Arkansas [Mr. ROGERS]. The bills on this subject which have been reported have been prepared largely under his direction; and I say again that if we could have the House bill as reported by the gentleman from Arkansas, I would prefer it to the Senate bill. But as the gentleman himself says, at this stage of the session we have either to take the Senate bill or to take nothing; and I think the Senate bill is a great improvement upon the present law.

With this statement I will, if the gentleman from Texas [Mr. CULBERSON] will allow, assign five minutes to my friend from Wisconsin [Mr. CASWELL] and the balance of the time to the gentleman from Texas.

Mr. CULBERSON, of Texas. Let the gentleman from Wisconsin have that time to conclude the debate.

Mr. CASWELL. If the gentleman from Texas desires that I should speak in conclusion I have no objection.

Mr. CULBERSON, of Texas. Mr. Speaker, when this subject was considered by the House in the last session it will be remembered that I advocated the passage of the House bill for which the pending proposition is a substitute adopted by the Senate and agreed to by the committee of conference.

I supported that measure because it destroyed the opportunity for circuit and district judges to play the rôle of the despot or tyrant in nonappealable cases, civil and criminal; and for the further reason that the system proposed would relieve the Supreme Court of the burden of a docket so overcrowded as to amount to a denial of justice.

The plan by which these results were to be secured, as proposed by the House bill, may be briefly stated as follows:

It provided that the circuit courts of the United States should be abolished and that the jurisdiction now exercised by them should be vested in the district courts as now organized, and that a circuit court of appeals should be created in each circuit, consisting of three judges with appellate jurisdiction only. In order to provide the judicial force necessary to organize these courts, it was provided that two additional circuit judges for each circuit should be appointed.

Mr. HOLMAN. Will the gentleman from Texas explain why so large a number of judges are necessary. If I understand the bill eight additional circuit judges are authorized to be appointed.

Mr. ROGERS. The gentleman from Indiana is in error, the proposition before the House authorizes the appointment of nine additional circuit judges.

Mr. HOLMAN. I thought there were already two circuit judges in the New York circuit.

Mr. ROGERS. There are, but, strange to say, the Senator from New York [Mr. EVARTS], who prepared this substitute, thought it proper to

provide one additional circuit judge for New York, where already there are two.

Mr. CULBERSON, of Texas. That, I understand, was necessary to accommodate the immense litigation arising under our tariff laws.

Mr. Speaker, the House bill relieved the judges of the Supreme Court of duty in circuit courts, thus enabling them to devote their entire time to the business in the Supreme Court.

The circuit court of appeals consisted of three circuit court judges in each circuit, and was required to hold one term in each year at a place designated in each circuit.

If for any reason a quorum of the court should fail to attend, it was provided that a district judge or judges might be assigned to this duty.

This plan of reorganization provided for a review of every civil case and of nearly every criminal case which might be tried in the court of original jurisdiction, either by the circuit court of appeals or by the Supreme Court, and in some cases by both.

This secured to every litigant the right to have his case reviewed by a court of last resort, and thus overthrew the judicial despotism we have been accustomed to in some sections of the country.

In respect to the relief of the Supreme Court, I may say that the division of the appellate jurisdiction now exercised by the Supreme Court and the new appellate jurisdiction created by the bill was made substantially upon this basis: All cases tried in the court of original jurisdiction might be reviewed in the circuit court of appeals, and if there should be no Federal question involved (as if jurisdiction should have been acquired by the court of original jurisdiction upon the ground of citizenship) the judgment of the court of appeals should be final, but if a Federal question was involved, the judgment of the circuit court of appeals might be reviewed by the Supreme Court.

Mr. Speaker, I propose to support the Senate amendment, not because I prefer the plan proposed by the Senate to that proposed by the House, but for the reasons which induced me to support the House bill. The same objects and results sought to be attained by the House proposition are secured by the Senate amendment.

A moment now, Mr. Speaker, as to the scheme of relief proposed by this amendment. It provides for the appointment of only nine circuit judges. A circuit court of appeals is created in each circuit. It consists of a judge of the Supreme Court and two circuit judges. It is required to hold one term each year at a place designated in the circuit. The appellate jurisdiction is divided between these courts of appeal, as shown by the following synopsis of the bill:

7. It provides for appeals from the district courts and from the circuit courts direct to the Supreme Court in the following instances only:

- (a) Where a question of jurisdiction is raised;
- (b) Final decrees in prize causes;
- (c) Cases of crime punishable by death;
- (d) Cases involving the construction or application of the Constitution of the United States, but not in cases involving the construction or application of acts of Congress;
- (e) Cases in which the constitutionality (only) of any law of the United States, or the validity or construction of a treaty, is drawn into question;
- (f) In cases in which the law of a State is claimed to be in contravention of the Constitution of the United States.

8. It leaves the jurisdiction of the Supreme Court in respect of cases brought from the highest court of a State as the law now is.

9. It gives the court of appeals jurisdiction to review decisions of the district and circuit courts in all other cases.

10. It provides that the judgments of the court of appeals shall be final in all cases—

- (a) In which the jurisdiction is dependent upon the character of the suitors, as citizens or aliens;
- (b) In cases arising under the patent laws;
- (c) In cases under the revenue laws;
- (d) In cases under the criminal laws; and
- (e) In admiralty cases other than prize.

11. It authorizes the court of appeals to certify to the Supreme Court questions of law.

12. It authorizes the Supreme Court in the cases last mentioned to review the whole case.

13. It also authorizes the Supreme Court to require the court of appeals to send up for consideration any case pending therein.

14. In all other cases in the court of appeals it authorizes an appeal to the Supreme Court from the court of appeals when the matter in controversy exceeds \$1,000.

These are the broad and leading features of the legislation proposed by the majority of the committee.

It will be seen from the foregoing that in general the Supreme Court of the United States is excluded from reviewing—

I. Cases in which the jurisdiction of the national courts depends upon the character of suitors.

II. All cases arising under the patent laws.

III. All cases under the revenue laws.

IV. All cases under the criminal laws.

V. All admiralty cases other than prize.

It will be seen from this statement that the division of labor between these courts and the Supreme Court is better arranged and less expensive to litigants than that proposed in the House measure.

There is no restriction upon the right of review, and in my judgment there is no question of the efficiency of the plan to give ample relief to the court.

My colleague on the committee [Mr. ROGERS] thinks that the failure to incorporate in this amendment a provision to remove the causes now pending in the Supreme Court of which the circuit court of appeals would have jurisdiction under this bill to the proper circuit court of appeals was a grave mistake, and will result in postponing the relief sought to be given the Supreme Court by this measure.

I concur in that opinion and believe that it was a grave mistake, and I have no doubt that Congress will rectify it as soon as practicable.

Mr. Speaker, in respect to the objection to the provision which secures to a defendant in a case of conviction of a capital or otherwise infamous crime an appeal direct to the Supreme Court of the United States, I desire to say that I believe that a more meritorious provision could not be inserted in this measure.

If there is any class of judgments which deserve a higher and greater consideration than another it seems to me that a judgment which takes life or liberty falls within it.

It is true, Mr. Speaker, that this measure, if it should become the law, will require the appointment of nine circuit judges by this Administration.

But I take it that the true question is, not whether this necessary judicial force is to be furnished from the Republican party or the Democratic party, or both combined, but, is it needed?

Shall the demand of the bar of the United States, without regard to party, be ignored? Shall the best interests of the country, so long outraged and disgraced by the law's delay, continue to be neglected because the President of the United States may fill these places with his party friends?

So far as I am concerned, I yield to what I believe to be the best interests of the country, without regard to party. Regretting sincerely to differ with Democratic colleagues on the committee, I shall vote for this conference report.

Mr. EZRA B. TAYLOR. I would like to inquire how much time remains.

The SPEAKER. Ten minutes remain on the side of the gentleman from Ohio and fifteen minutes on the other side.

[Mr. OATES addressed the House. See Appendix.]

Mr. BRECKINRIDGE, of Kentucky. How much time have I, Mr. Speaker?

The SPEAKER. The gentleman has seven minutes.

Mr. BRECKINRIDGE, of Kentucky. Mr. Speaker, I was not in favor of the House bill, I am not in favor of this bill, and I think it intensifies the vices of the present system and will increase the evils under which the courts now rest. My judgment is that there is not a single step taken in this bill that is not in the wrong direction. In some future Congress we will have to make reorganization of the entire system, and what we are about to do to-day will be a most serious obstacle in the organization of a proper judicial system.

I know there are grievances. I wish they were heavier, because I do not believe we can obtain a proper reorganization of the Federal judiciary until those grievances are heavy enough to induce Congress to take this question up for the purpose of reorganizing the system. I believe that the first and main remedy is in the limitation of the jurisdiction to be given to the courts of original jurisdiction; is to take from the Federal judiciary the vast amount of jurisdiction which does not under our system properly belong to it, and turn those cases into the State courts, where they ought to be decided. I believe the second step is to confer upon the courts at the homes of the litigants all original jurisdiction not given by the Constitution to the Supreme Court; that is, to give to the district court all original jurisdiction.

The next step is to abolish this anomalous circuit-court system, which we inherited from our fathers, when the conditions which environ us are entirely dissimilar to those which induced them to create it, and to create an intermediate court of appeals composed of the circuit judges in commission, sitting at Washington—a single court—securing a harmonious and national jurisprudence, and not that want of uniformity which has been so ably and humorously illustrated by my friend from Alabama [Mr. OATES]. Then to limit the appeals that can be carried to the Supreme Court, so far as can be well done, to the decision of constitutional questions, to matters arising between the States, and to the construction of Federal statutes.

This is a harmonious system; it is homogeneous; it is in accord with our habits and customs in the various States. It will give to the country an ample remedy for all the evils we now have. This bill is directly in the opposite direction. It relieves no court. It does not, in my judgment, give any remedy. I will not allude to the means by which it has been passed, which will always give to these new circuit courts a flavor of being illegally adopted; but I confine myself to the system created. I believe that it will result in the multiplication of these circuit courts.

It will be found that they will be congested, and each Congress will be asked to create another circuit court and another court of appeals. From nine they will grow to twelve, and from that to fifteen and to eighteen; and every time they grow there will be the personal interest of friends of members of Congress that will stand in the way of reorganizing the system. It will increase the number of district courts without really relieving the court of appeals, and we will always have ourselves confronted with exactly the same condition of things we are now in, with more persons interested and with the idea that we are to continue in the same direction.

It is another evidence of the evil of giving an overstimulated patient

an additional dose of stimulant. It is not beginning at the foundation and correcting the evils that exist in the very nature of the system itself. Our country is growing so large the interests are becoming greater and greater. The pressure is for an increase of original jurisdiction in the courts of the various districts. We ought to limit that. We ought to begin to resist that pressure. We ought to minimize, as far as possible, the number of classes of causes which can be carried into these original courts, and then we ought to see to it, as far as possible, that we have a homogeneous jurisprudence.

The evil of congested litigation, great as it is, is not comparable to the evil of an inharmonious jurisprudence to thousands of great interests all over the country; but one system of jurisprudence that applies to all their contracts in every part of the country, now united by steam, by telephone, and to be still more closely united by the wonderful inventions that are awaiting us, is more necessary than to relieve the temporary evils of congested litigation.

Mr. Speaker, my judgment is that those who to-day think they are relieving litigation are doing harm instead of good, as they will not give to the country a harmonious jurisprudence; and they are also doing harm to the respect that the country has for the judiciary. I feel the keenest interest in this, because, above everything, I am a lawyer. It is the profession of my choice and affection; and I think the Congress of the United States to-day—without saying anything about politics or who shall appoint the judges—is making a grave and serious mistake.

Mr. ROGERS. Mr. Speaker, I think I have a minute or two left. If so, I desire to yield two minutes to my friend from Pennsylvania [Mr. VAUX].

The SPEAKER. The gentleman from Pennsylvania is recognized for two minutes.

Mr. VAUX. Mr. Speaker, the Philadelphia Bar Association appointed a committee to appear before the Judiciary Committee in the Fiftieth Congress to explain the necessity for the relief of the judges of the Supreme Court. I had the honor to be the chairman of that committee, and therefore I feel that a single remark may be permitted me on this occasion upon this report. As I understand the report of this conference committee, it gives satisfaction here and there, local satisfaction, but as a general thing it is unsatisfactory to the bar of the United States. For myself I object very much to any system of legislation touching our judiciary which shall, directly or indirectly, positively or by inference, weaken the respect of the people for that tribunal, which I am sorry to say is not now so strong as it was some years ago.

A MEMBER on the Republican side. Before the war?

Mr. VAUX. Sir, it has not been increased in strength by any of its actions since the war. Now, Mr. Speaker, the difficulty about this bill is that it divides up the jurisdiction too infinitesimally. You have circuit judges, you have district judges, you have judges of appeal, and judges of the court of final resort—the Supreme Court. To what tribunal can the suitor go and expect to have a final determination of his case, or of the principles involved? You are liberally assigning to the Supreme Court original jurisdiction in all cases of crime above and including felonies. The time of the court is to be taken up with matters that could very well be left to the State courts.

Why are the State courts to be deprived of their constitutional jurisdiction, their home jurisdiction, over the rights and interests of the people of the State? Why should not that be left to them, and why should the Supreme Court of the United States be called upon by habeas corpus to take a man charged with murder out of the jurisdiction of the courts of the State in which the crime was committed and carry him before the Supreme Court? It is this method of accumulating jurisdiction, this adding jurisdiction to jurisdiction to tribunals that are beyond the reach of popular opinion, that is taking away from the court very much of the respect which is essential to the maintenance of its high authority.

Mr. EZRA B. TAYLOR. Mr. Speaker, I now yield five minutes to my colleague on the committee [Mr. CASWELL].

Mr. CASWELL. Mr. Speaker, as one of the conferees upon the part of the House I desire to say I am radically in favor of the bill which passed through this House. I do so because I believe that would give the country effectual relief. Some slight amendment, probably, should have been made, and then it would have been a very perfect bill. But we are confronted with this condition of things. If this report is adopted no further step will be necessary in either House to complete the bill. For ten or twelve years we have been trying to agree upon a system that will relieve the Supreme Court. That has been the great prime object. The House bill substantially did that, in my judgment. The Senate bill goes only part of the way and affords partial relief. But appeals come to us from members of the bar all over the country to consent to the Senate bill if nothing more can be had, and I am satisfied if we disagree to this report we shall lose the bill entirely; hence I am in favor of adopting the report.

Mr. REILLY. Will the gentleman allow me to ask him a question?

Mr. CASWELL. I have not the time, for the hammer will soon cut me off. I would be glad to yield if I could. It is objected that the Senate bill which we adopt by the report does not remove any of the cases now upon the Supreme Court calendar.

It is said there are 1,700 cases upon that calendar. But a grave question confronts us here, and I want to suggest to my colleagues upon the committee that there appears to be an insurmountable difficulty. The Constitution of the United States has provided a Supreme Court for the final adjudication of causes. Litigants have found their way into that tribunal under laws in force when they took their appeal, and the question arises, have they not obtained a vested right to have their causes tried by this court provided by the Constitution of the country?

Do gentlemen consider whether Congress has the power to take away the jurisdiction of the Supreme Court of the United States in any given number of cases and remand them to an inferior court for final determination? I must say that I am laboring under very grave doubt as to whether Congress has the power to thus transfer those cases.

Mr. CULBERSON, of Texas. It was decided that they could do it in the McCardle case.

Mr. CASWELL. The gentleman from Texas [Mr. CULBERSON] thinks it has been held by the Supreme Court in the McCardle case that this might be done. Very well; but I doubt if that case goes so far. The law which gave McCardle his appeal to the Supreme Court was subsequently, and before final judgment, repealed. The court held their jurisdiction had terminated. But could Congress provide another tribunal in which the case shall be tried without the consent of the parties?

It is to be hoped that in a short time the Supreme Court will find some relief under the bill proposed by this committee. The great objection which I have to the Senate bill is that the appellate court will be too weak. If I could have my way I would add two judges in each circuit to this court of appeals instead of one. I would add seventeen circuit judges to the present judges in the nine circuits and make that court of appeals one of great strength. I would meet this question in a way to give relief to the country.

My great fear is that in future this court of appeals will consist of only one circuit judge and one district judge sitting in review of the cases which have been tried in the district and circuit courts. The court of appeals would be much stronger if it could, as provided in the House bill, consist of three independent circuit judges. The court would command the respect and confidence of the people, and a far less number of cases would be taken to the Supreme Court. But I favor the Senate bill, because it is the best we can do at the present time.

If we adopt this report we will have broken in upon the system and have lifted it from the judicial rut where we now find it. It can not be expected that with one bound we will secure a complete plan. Subsequent Congresses will find it easier to amend and improve the law which we now enact than we have found it in securing the passage of this bill, and soon we may find complete relief for the Supreme Court, which we all so much desire to see.

Mr. EZRA B. TAYLOR. Mr. Speaker, it was my intention to make some remarks upon this subject this morning because it is one concerning which I have thought for a long time, but I find myself in a condition of voice that utterly precludes my doing so. May I therefore ask the House to grant leave for the gentlemen who have taken the floor upon this subject, including myself, to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Ohio, in charge of this bill, asks unanimous consent for gentlemen to extend their remarks in the RECORD.

There was no objection.

Mr. EZRA B. TAYLOR. Now, Mr. Speaker, I yield the remainder of my time to the gentleman from Missouri [Mr. FRANK].

The SPEAKER. The gentleman from Missouri has four minutes.

Mr. FRANK. Mr. Speaker, of course it would be impossible, in four minutes, the last on this measure, which I esteem an honor to have accorded me, to speak of the merits of the Senate bill and of the House bill, and to contrast the merits of the respective bills.

I simply rise to say that if the gentleman from Pennsylvania [Mr. VAUX] has the impression that the bar of the country is not satisfied with this bill he is mistaken. I believe that no body of our citizens is looking with greater anxiety or solicitude to the work of this Congress than the bar of the country, and the Federal judges of the United States are looking to us with respect to this legislation.

I believe that the bill originally reported to this House from the Committee on the Judiciary is in all respects a better, a more meritorious, a more satisfactory measure than that which the conference committee has submitted.

I believe that the House bill defining and regulating the jurisdiction of the courts of the United States presents a more harmonious and symmetrical judicial system than does the conference report. But, sir, the bill now before us is a step in the right direction; and I believe that, if it becomes a law, as I hope it may, the desirable features of the House bill will be introduced into it from time to time by way of amendment, so that we shall have a system entirely satisfactory to the country.

One of the most important features of the bill as agreed upon by the conference committee is that giving the right of appeal, where no such right has heretofore existed, from the *nisi prius* courts in criminal cases. I take this to be one of the most important changes in the jurisprudence of the country; and even though there were the peril

which the gentleman from Arkansas [Mr. ROGERS] apprehends, that it may further congest or clog the docket of the Supreme Court, I think the benefits which may be anticipated from the change far outweigh or counterbalance that objection. With these remarks, Mr. Speaker, I leave the question to the judgment of the House.

The question being taken on agreeing to the report of the conference committee, there were—ayes 107, noes 62.

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

Mr. REILLY. Before the vote is taken I would like to ask the gentleman from Ohio [Mr. EZRA B. TAYLOR] one question in regard to this proposition.

The SPEAKER. It can only be done by unanimous consent.

Mr. REILLY. I ask unanimous consent for the purpose.

The SPEAKER. The gentleman will proceed if there be no objection.

Mr. REILLY. If we should now instruct the House conferees to insist further upon the House bill, can the gentleman hold out any hope to us that the Senate conferees would ultimately agree to that bill?

Mr. EZRA B. TAYLOR. I think it would be impossible to agree on anything else than what we have reported.

Mr. REILLY. Then another vote by the House insisting on its bill would not give that measure any additional prestige?

Mr. EZRA B. TAYLOR. Not a particle.

The question being taken on ordering the yeas and nays, there were—ayes 29.

The SPEAKER. Not a sufficient number in the opinion of the Chair.

Mr. OATES. I ask for tellers on the yeas and nays.

Mr. EZRA B. TAYLOR. I hope my friend from Alabama will not insist on the call for the yeas and nays.

Tellers were not ordered, only 33 voting in favor thereof.

Mr. BRECKINRIDGE, of Kentucky. I call for the other side on ordering the yeas and nays.

The SPEAKER. The Chair thinks it is too late to take the other side on that question.

Mr. BRECKINRIDGE, of Kentucky. The question just taken was upon ordering tellers on the yeas and nays.

The SPEAKER. Precisely. The impression of the Chair is that it is too late now to ask for a count of the other side on ordering the yeas and nays. The yeas and nays are refused, tellers are refused, the yeas have it; and the report of the committee of conference is agreed to.

Mr. EZRA B. TAYLOR moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNITED STATES LAND COURT.

Mr. CASWELL. As a privileged question, I call up the conference report which was pending at the adjournment last night. The report and the statement of the House conferees were both read at that time.

The House resumed the consideration of the report of the committee of conference on the bill (H. R. 9798) to establish a United States land court and to provide for a judicial investigation and settlement of private land claims in the Territories of Utah and New Mexico and the States of Colorado, Nevada, and Wyoming.

Mr. CASWELL. I move the previous question on the adoption of the report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

Mr. BOATNER. I think the Delegate from Arizona [Mr. SMITH] desires to be heard on this bill.

The report was agreed to.

Mr. CASWELL moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE APPROPRIATION BILL.

Mr. BUTTERWORTH. I ask unanimous consent that there may be nonconcurrence in the amendments of the Senate to the legislative appropriation bill, and that a conference be requested with the Senate on the disagreeing votes.

The SPEAKER. The gentleman from Ohio asks unanimous consent that the amendments of the Senate to the legislative appropriation bill be nonconcurred in and a conference asked with the Senate. Is there objection? The Chair hears none, and it is so ordered.

The SPEAKER subsequently announced the appointment of Mr. BUTTERWORTH, Mr. CANNON, and Mr. FORNEY as conferees on the part of the House.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HITT addressed the Chair.

Mr. CANNON. Before my colleague [Mr. HITT] proceeds, I want to ask consent for similar action on the sundry civil bill to that just adopted on the legislative bill.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks

unanimous consent that the amendments of the Senate to the sundry civil appropriation bill be nonconcurrent in and a committee of conference asked for. Is there objection? The Chair hears none, and it is so ordered.

The SPEAKER subsequently announced the appointment of Mr. CANNON, Mr. COGSWELL, and Mr. SAYERS as the conferees on the part of the House.

POLICE COURT IN THE DISTRICT OF COLUMBIA.

Mr. CASWELL. I desire to submit another conference report, which will occupy but a few minutes. It relates to the police court of the District of Columbia.

The SPEAKER. The gentleman will send up his report.

Mr. CASWELL. I suggest that the report need not be read at length, as it simply provides for the correction of errors, and everybody consents.

The SPEAKER *pro tempore*. The gentleman from Wisconsin asks that the reading of the conference report be dispensed with.

Mr. CASWELL. It simply strikes out the word "jury," which was inserted by mistake, and inserts "judge;" it also restores the deputy marshal to take charge of the jury, a provision which the Senate by accident omitted, as I am informed.

There being no objection, the reading of the report was dispensed with. It is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13218) to define the jurisdiction of the police court of the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same amended as follows:

Strike out the word "jury" at the end of section 2 of said amendment and insert in lieu thereof the word "judge."

Add at the end of section 3 of said amendment of the Senate, before the period, the words "and for that purpose he may appoint an additional deputy who shall be paid \$3 a day while so employed."

Insert, in line 8 of section 7 of said amendment of the Senate, after the words "one thousand" and before the word "dollars," the words "five hundred."

And the Senate agree to the same.

L. B. CASWELL,
J. W. STEWART,
JOHN S. HENDERSON,
Managers on the part of the House.
JAMES F. WILSON,
WM. M. EVARTS,
JAMES L. PUGH,
Managers on the part of the Senate.

The statement of the House conferees is as follows:

The effect of the conference is to secure substantially the House bill. The amendment of the Senate, to which the conferees agree, does not change any of the main provisions of the bill as it passed the House.

L. B. CASWELL,
J. W. STEWART,
JOHN S. HENDERSON,
Managers on the part of the House.

The question being taken, the report of the committee of conference was agreed to.

Mr. CASWELL moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. SPOONER. Mr. Speaker, I desire to submit a conference report on the Military Academy appropriation bill.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12322) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1892, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

H. J. SPOONER,
SAMUEL P. SNIDER,
S. M. ROBERTSON,
Managers on the part of the House.
W. B. ALLISON,
C. B. FARWELL,
WILKINSON CALL,
Managers on the part of the Senate.

The statement submitted by the House conferees was read, as follows:

Statement to accompany conference report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 12322) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1892.

The effect of the adoption of the conference report, as recommended, will be to pass the bill precisely as heretofore passed by the House.

H. J. SPOONER,
SAMUEL P. SNIDER,
S. M. ROBERTSON,
Conferees on the part of the House.

The SPEAKER. This report requires no action upon the part of the House.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. HITT. Mr. Speaker, I am instructed by the Committee on Foreign Affairs, to whom was referred the Senate amendments to the bill

H. R. 13069, the diplomatic and consular appropriation bill, to submit the report I send to the desk.

The Clerk read as follows:

The Committee on Foreign Affairs, to whom was referred the bill (H. R. 13069) making appropriations for the diplomatic and consular service of the United States for the fiscal year ending June 30, 1892, together with the amendments of the Senate thereto, having considered the same, beg leave to report as follows:

They recommend concurrence in the amendments of the Senate numbered 1 to 14 inclusive.

They recommend nonconcurrence in the amendment numbered 15.

Mr. HITT. Mr. Speaker, the report submitted by the committee is one in which my colleagues on the committee have agreed; but before asking a vote upon it I have, upon consultation with my colleague, the honorable gentleman from Kentucky [Mr. MCCREARY], agreed that we may be permitted to hear his views upon the report and especially upon the amendment of the Senate in which the committee recommend nonconcurrence, that in regard to the Honolulu cable. I therefore yield to my colleague ten or fifteen minutes, or such time as he may desire.

Mr. MCCREARY. Mr. Speaker, the subject which I propose to discuss is the Senate amendment to the diplomatic and consular appropriation bill providing for a submarine telegraph line from San Francisco, Cal., to the Hawaiian Islands, to be owned and operated by a private corporation, but to be paid for with money taken from the United States Treasury.

Republican Congressmen have granted subsidies to railroad corporations by donating millions of acres of the public lands; they have granted subsidies to manufacturers throughout the country by a vast and comprehensive tariff system; they have granted subsidies to banks and to trust companies, and they have during this Congress granted to the sugar producers of the country millions of dollars per annum by way of bounty.

There is pending in the other end of the Capitol, and soon to be brought to this House, a bill which authorizes the Government to indorse the bonds of the Nicaragua Canal Company to the amount of \$100,000,000, which means the payment of that amount ultimately by the Government; and last night near the midnight hour we finished the consideration of one of the most iniquitous bills that has ever been considered in the Congress of the United States, which sought to grant to certain ship-owners of this country nearly \$200,000,000 from the public Treasury. I congratulate this House and the country that conscientious and patriotic members were strong enough in their antagonism to that measure to strike down that colossal subsidy, so that instead of \$200,000,000, as the original bill required, the amount appropriated in the bill which passed will not exceed \$18,000,000.

We are asked to-day by the amendment which comes from the Senate, and which has been fastened upon the diplomatic and consular bill, to appropriate \$3,000,000 for the construction of a submarine cable line from San Francisco to the Hawaiian Islands. We have had, Mr. Speaker, in the past, subsidies on land and subsidies on the sea, and now we are being asked to furnish subsidies under the sea.

There are to-day nine submarine cables connecting the United States with the great commercial centers of the world. Not a dollar did the Government of the United States give toward the construction of any one of these cable lines, and so far as I know the Government was never asked to give a dollar. But now there is a new departure. We are asked to give \$3,000,000 to a private corporation to construct a cable line.

Sir, I am not in favor of the Government of the United States embarking in the construction of submarine cables; but if this Government is to furnish all the money to build submarine cables, and if it be deemed necessary to have them the Government should own, control, and operate them, and not a private corporation.

I read now the fifteenth clause of the diplomatic and consular appropriation bill added to the House bill in the Senate:

(15) To enable the President to make engagements with any such citizens or corporations of the United States as shall appear to possess the means and facilities necessary to that end, for telegraphic communication between the United States and the Kingdom of Hawaii, which engagements shall contain provisions sufficient, in the judgment of the President, to secure to the Government and citizens of the United States early and adequate communication by telegraph with said kingdom upon reasonable terms for a period of not less than fourteen years, a sum not exceeding \$250,000 for each year in and during which such communication shall be so in operation, and during which such engagements shall be so in course of execution, not exceeding twenty years; and the total sum paid under this authority shall not exceed \$3,000,000.

This is a sugar-coated and carefully disguised proposition, but when properly scrutinized it means a subsidy of \$3,000,000 to the private citizens who construct the submarine telegraph.

Under the reciprocity of the McKinley tariff bill the President of the United States is authorized under certain circumstances to impose a tax of 3 cents a pound upon coffee which is now free of duty, and he was also authorized under certain circumstances to impose a tax upon tea of 10 cents a pound, which is also free, and upon hides of 1½ cents per pound, and to restore the tax upon sugar. That is called reciprocity for the benefit of nations; but under this bill, which seeks to give \$3,000,000 to a private corporation, it will be reciprocity for the benefit of individuals, to enable them to still further pillage and plunder the public Treasury.

I want to call the attention of this House to the fact that the Senate amendment contains no provisions limiting the power of the corporation which takes charge of the money sought to be appropriated. It does not require the affairs of the company to be managed by a board of directors, a majority of whom are to be citizens and residents of the United States. It does not require the principal office of the company to be in the United States. It does not require that the company shall annually make a report to the Secretary of the Treasury, giving such detailed statements of its affairs, assets, and liabilities as he may require, and as ought to be done, considering the fact that the Government is to pay millions of dollars out of the Treasury toward it. It does not provide that the company shall effectively operate such lines with a sufficient staff of proper and efficient officers, being citizens of the United States.

It does not name the capital that is to be used for the construction of the work. It does not say in what time it shall be completed, and it does not show the necessity for the work. It does not provide that the company shall not mortgage, assign, lease, deed, or in any manner transfer the cable line without the consent of the United States. It does not provide that in case of war or other emergency the Government may take possession of and operate the line, making compensation therefor, and it does not provide that in case of extension of the line beyond the Hawaiian Islands the Government shall without further payment have the same rights and privileges with reference to the transmission of its messages over such extension that it has over the line between San Francisco and the Hawaiian Islands.

Mr. ELLIS. What amount is to be paid by our Government each year to the corporation, and how long will the subsidy last?

Mr. McCREARY. The Senate amendment provides that we shall pay out of the Treasury \$250,000 per annum towards the maintenance of this cable line for the period of fourteen years, but not exceeding \$3,000,000. In order to show how exorbitant this amount is I have only to state what the United States paid last year for cablegrams. All the cablegrams sent by the Government to every part of the world over any cable line cost last year only the sum of \$52,000; and yet we are asked to give \$250,000 to the line from San Francisco to the Hawaiian Islands.

It is hardly necessary for me to ask the members of this House if they understand fully the necessity for extending a cable line to the Hawaiian Islands. What is the population of the Hawaiian Islands and where are they situated? There are twelve islands in the North Pacific Ocean called the Hawaiian Islands, and sometimes called Sandwich Islands. They are more than 2,000 miles distant from San Francisco and four of the islands are not inhabited. Eight of them are inhabited. They are known and conspicuous for their mountains and their volcanoes. One of the largest volcanoes in the world is found on one of the Hawaiian Islands. Only 80,000 people are on those islands. They are Chinese, Portuguese, Japanese, Africans, Americans, Europeans, and Hawaiians, and there are only 10,000 white people there. It might be well said of this mixed population as was said by the great dramatist:

Black spirits and white,
Red spirits and gray;
Mingle, mingle, mingle,
You that mingle may.

And yet we are asked to give \$3,000,000 in order that we may have a cable line to connect with the Hawaiian Islands. It seems like another job, another scheme; it seems like another proposition to enrich the few at the expense of the many.

Mr. Speaker, have we any naval station at the Hawaiian Islands? None whatever. Is there anything there to make it necessary that we should send out a cable line to those islands? I have searched in vain for a good reason for this subsidy.

Those who are advocating the subsidy say "it will improve our commerce." We have not much commerce with the Sandwich Islands. There are less than a hundred sugar plantations on the Hawaiian Islands. We gave the Hawaiian Kingdom, under the treaty that we made some years ago, a great many privileges. We allowed the inhabitants to send their sugar to this country free of duty. Since that treaty was made they have made millions of dollars on account of the privileges we have extended them, but our country has been but little benefited. It is said by others "we need a ship harbor at the Sandwich Islands." We have now a ship harbor there called the Pearl River Harbor; and I doubt whether an American vessel has been in the ship harbor for months. The Sandwich Islands are on the line from San Francisco to Samoa, Japan, and China, and vessels carrying the United States flag are not numerous on this line.

Another argument relied on by the friends of this subsidy is that if we do not speedily build this line Great Britain will build a line from Canada to the Sandwich Islands under a concession granted by the Hawaiian Kingdom to a man named Albert Hartwell, and we will be shut out forever.

This is the same old John Bull threat which has become too common in the American Congress. It is untrue and unworthy to be used in this discussion. There is nothing in it; and I call the attention of members of this House to the treaty which now exists between the United States and the Kingdom of Hawaii. I read from the treaty of

1884, which I think will satisfy any impartial mind that the Government of the United States now has the right, conceded by the Kingdom of Hawaii, to lay and land a submarine telegraph line to the Hawaiian Islands.

Article II of the treaty of 1884 is in the following words:

His Majesty, the King of the Hawaiian Islands, grants to the United States the exclusive right to enter the harbor of Pearl River in the island of Oahu and to establish and maintain there a coaling and repair station for the use of vessels of the United States; and to that end the United States may improve the entrance to said harbor and do all other things needful to the purposes aforesaid.

There can be nothing clearer than the authority granted us under this treaty between the United States and the Hawaiian Kingdom to construct the submarine cable to Pearl River Harbor, and this harbor is only 12 miles from Honolulu, the capital and principal city of the Hawaiian Islands, and an overland line can be built to that city if desired.

It has only been a few days since we were called upon to appropriate \$25,000 in the naval appropriation bill to enable the President of the United States to cause careful soundings to be made between San Francisco, Cal., and Honolulu, in the kingdom of Hawaii, to ascertain the practicability of laying a cable line between those two points; and the President was also authorized to direct the use of any vessel or vessels belonging to the United States in making such soundings.

Mr. Speaker, when \$25,000 was asked to be placed in the naval appropriation bill for the purpose of making this examination, it was then stated that we desired to ascertain if a cable line could be laid; but now, in less than two weeks from that time, we are asked to appropriate \$3,000,000 to authorize the construction of the cable line.

Another singular and unusual fact connected with the Senate amendment deserves to be stated, and it is this: When the proposition for Government aid first came before the Committee on Foreign Affairs of the House, the majority of the committee agreed that \$150,000 annually was sufficient for the United States Government to pay the Submarine Cable Company.

When Mr. Hartwell, the man who claimed to have the concession from the Hawaiian Kingdom, came before the committee he asked for \$200,000 per annum, but the Senate, when considering the diplomatic and consular appropriation bill, followed its usual generous course and appropriated \$250,000 per annum, or more than was asked by the gentleman who had the concession, and more than the Committee on Foreign Affairs of the House believed was necessary.

Mr. Speaker, this whole scheme deserves to be voted down. It deserves to be condemned. It deserves to be defeated as we defeated that colossal scheme last night, the ship-subsidy bill. If our Government now embarks in the construction of submarine cables when will it end and where will it lead to? If \$3,000,000 are donated to a private corporation to construct a cable line from San Francisco to the Sandwich Islands, how long will it be before millions are asked to construct other cable lines?

If the Government is going into the business of constructing cable lines under the water, why not embark also in the business of constructing telegraph lines on land? Why should it not construct railroads in every part of the United States and extend lines to Central and South America? That is where the proposed policy will lead. In 1876 the Congress of the United States incorporated a company and named LELAND STANFORD, now a Senator from California, as one of the incorporators and Captain Mareno another. That company was authorized to construct a submarine telegraph line from San Francisco to the Hawaiian Islands. This line will be constructed by private enterprise if we let it alone. Whenever it is necessary to have a submarine cable line from San Francisco to the Hawaiian Islands we will have it.

Senator LELAND STANFORD was elected president of the company authorized under the act of 1876, but now it is sought to set that company aside, and the Government is asked to pay three millions of dollars towards the construction of this line, although it is to have no ownership or control over it and no management of it, and the cost of the construction of the entire line was placed as low as \$2,700,000 by careful estimates made in 1889. I am not in favor of Government subsidies, and I am opposed to this scheme and all others like it.

If the object of the pending proposition is to benefit us by giving us connection with a great harbor where our ships are to anchor, then we certainly ought to have control of the cable line that is to connect us with our ships in that harbor. To-day there is probably not a ship in that harbor, we have no shipyard there, there is no talk about establishing a shipyard there, and there is no necessity for a shipyard there. This amendment has no proper place on the diplomatic and consular appropriation bill and it ought to be stricken from the bill.

Mr. HOLMAN. It is in violation of the rules of the Senate.
Mr. McCREARY. Yes, Mr. Speaker, as the gentleman from Indiana very properly suggests, this amendment has been placed on the bill in violation of the rules of the Senate. This is another illustration of the idea that has been dominating this Congress from the beginning: "Have subsidies at all hazards; spend the people's money in order and out of order." Such conduct as this, coupled with the im-

position of burdensome taxes and improper interference with election laws and reckless disregard of the people's wishes caused the overthrow of the party now dominating this House, and it is time that the lessons of last November should be heeded.

I hope that the same conscientious and patriotic men who enabled us to defeat the ship subsidy last night will enable us to-day to defeat this cable subsidy.

Mr. Speaker, we are rapidly approaching the end of this session. We are now in the dying days of the Fifty-first Congress. This Congress will not only be remembered forever as an eventful Congress, but it will always be conspicuous in history for its iniquitous measures and for its unparalleled appropriation of the public money.

Look at the appropriation bills that have passed (for now all the regular appropriation bills have gone through this House) and you will find that at this session of Congress we have appropriated \$72,000,000 more than was appropriated at the last session, and one hundred and fourteen millions more than was appropriated in the regular appropriation bills at the last session under the Cleveland Administration.

The great surplus which two years ago could barely be contained in the vaults of the Treasury has melted away like snow before a summer sun, and the best financiers admit there will be a deficit in the Treasury at the end of the present fiscal year. I believe the time has come when those who are looting the Treasury should call a halt. I believe Congress should return to plain, economical, patriotic legislation. I believe subsidies and jobs and improper schemes should be denounced and driven from the Halls of the American Congress, and, finally, I believe the time has come when we ought to stand for "equal rights to all and exclusive privileges to none." [Applause on the Democratic side.]

Mr. HITT. Mr. Speaker, as we are all agreed upon every point, I would like now if we could have a vote.

Mr. HERBERT. I ask the gentleman to yield me five minutes; then we can have a vote.

Mr. HITT. I yield to the gentleman.

Mr. MCCREARY. One word, Mr. Speaker. The gentleman from Illinois says we have agreed upon every point—

Mr. HITT. I beg the gentleman's pardon. There is one point upon which we do not agree.

Mr. MCCREARY. The gentleman from Illinois is in favor of \$150,000 a year subsidy, instead of \$250,000. I am opposed to all subsidies.

Mr. HERBERT. Mr. Speaker, a Mr. Hartwell has obtained a concession from the Hawaiian Islands authorizing him to construct a cable line from Honolulu to the United States, or some other portion of America. He is to receive \$25,000 annually as a subsidy from that kingdom, and this proposition is that a subsidy of \$250,000 per annum shall be contributed on the part of the United States. I understand that a majority of the House Committee on Foreign Affairs are in favor of giving \$150,000 a year. Now, sir, I know of no proposition more absolutely indefensible than this, unless it be the late treaty with the Hawaiian Islands. This proposition is that the Hawaiian Islands shall pay \$25,000 per annum, and that we shall pay \$150,000 per annum, for a cable which is to belong to private parties.

The Government has no need for this cable. We have no naval station in Hawaii; we have no navy yard there, and a cable would be of little value for military purposes. It would not connect us with any point of supplies or any base of operations. Like any other cable reaching into a foreign land it might give us early news of the movements of an enemy, but like any other cable it could be easily cut at any time by any single vessel that might interpose itself between us and those islands. There is not a single reason that can be given for this subsidy that could not be also given for subsidizing a cable to Samoa or to China or to the western coast of South America.

I am opposed to throwing this money away on the Hawaiians. We have had a costly experience with that country. History, I will venture to say, has never yet recorded any treaty between two countries intended to secure reciprocal trade that was as one-sided as this has been. Under that treaty sugar and rice were introduced into the country from Honolulu free. The treaty was made in 1876; and from 1877 to 1889 we released duties, principally upon sugar and rice, amounting to \$49,377,000. Every dollar of that was a gift to the people of Hawaii—without consideration. The admission of that sugar, duty free, did not result in lowering the price of sugar.

I hold in my hand a table compiled in the Bureau of Statistics showing the prices of sugar for fifteen years past; and by this table we find what we might have known without it, that during all the period to which I have referred sugar was a little higher in San Francisco, notwithstanding its admission free of duty, than the price of duty-paid sugar in New York. So the duties which we released on sugar and rice were an absolute gift to the people of Hawaii, that gift amounting, as I have said, to \$49,000,000. From 1877 to 1890 we exported to that country goods amounting altogether in value to \$39,000,000. The difference between the amount of duty we released to Claus Spreckels and the other importers of sugar and rice from the Hawaiian Islands and the value of the goods which we exported to these islands was \$10,000,000.

We could have bought every dollar's worth of the goods that we exported to that country and thrown them into the sea and have profited

by the operation, saving to the Government and the people over \$10,000,000. On the \$39,000,000 we sold to the islands we made only a reasonable profit—say it was 20 per cent., \$8,000,000. This \$8,000,000 represents all, every cent of our profit from the treaty, while the \$49,000,000 we gave up in duties was the price we paid over and above the price at which we bought similar goods from other countries. This makes a clear loss of \$42,000,000. Now, when the Navy Department of this Government has paid in eighteen months past only about \$2,000 for all its cable dispatches to foreign countries, we are called on to pay \$150,000 per annum for this single cable to Honolulu.

Mr. Chairman, the Hawaiians are greedy—

[Here the hammer fell.]

Mr. HITT. Now, Mr. Speaker, I ask a vote on the adoption of the report, on which we seem to be agreed.

Mr. SMITH, of Arizona. I would like to have four or five minutes upon a matter personal to myself, relating to the conference report adopted this morning in regard to the United States land court. I came here from a sick bed this morning to meet that question, and there have been statements made in connection with the matter upon which I wish to say a word now.

Mr. HITT. I yield to the gentleman.

Mr. SMITH, of Arizona. Against the advice of my physician I came to this House from my sick bed this morning and saw the chairman of the Committee on Private Land Claims [Mr. CASWELL]. I told him that I was deeply interested in what is known as the court for the settlement of private land claims. I told him the importance of the measure to my constituents, the interests involved to Arizona in that bill. The House knows my continued and constant opposition to the measure.

When that report was called up this morning (while I was lying, on account of excessive pain, upon the lounge over there) my friend from Louisiana [Mr. BOATNER] gave notice that I was here upon that particular matter; but no attention was paid to the statement, and that conference report was adopted, which means nothing more nor less than the absolute stealing of the lands of Arizona and giving them to land sharks and land thieves. Arizona was put into the bill; and I was reported as saying, if I understood the conversation as repeated to me, that I had no objection to it. That is the reason I take the floor now to say again, as I have said all the time, that I do object to it.

I know the condition of those people; and I know that at last, by the adoption of this measure, those against whom they have been struggling have succeeded in getting them where nothing on earth will save them from the land sharks.

I wanted to suggest to the conferees the adoption of an amendment; but from the circumstances already stated I was unable to do so. Later to-day, if I can get the Speaker's ear, I propose to ask unanimous consent to be heard in support of a simple amendment, which it would not take the conferees long to adopt, securing to the bona fide settlers who have lived for years on these grants of unsurveyed lands some protection in their rights, and giving to the adverse claimants, if successful, new lands instead of despoiling these honest settlers of their homes. These fraudulent land claims are used for nothing else except to blackmail the settler, to get away from him his home or his money. Later in the day, as I have said, I shall seek, by unanimous consent, an opportunity for the adoption of such an amendment as I have indicated.

Mr. HOLMAN. I wish to ask the gentleman from Illinois [Mr. HITT] a question. In the report made to the House in regard to this matter it is stated that in 1889 the cost of constructing this telegraph line was estimated at \$2,731,000; and at this time, on account of the advance in the price of rubber, the cost is estimated at \$3,708,750. I wish to ask the gentleman from Illinois this question: If we are to pay \$3,000,000 and more within fourteen years as a subsidy to this line, would it not be far better that the Government should take the matter in hand at once, and own the line, rather than give this bonus or subsidy of more than \$3,000,000?

Mr. HITT. In answer to the gentleman I will say that if I should be upon the conference committee I shall oppose anything being put in this bill that will grant any \$3,000,000 to any company.

Mr. HOLMAN. But does not my friend propose to agree to an amendment fixing the amount at \$150,000 a year?

Mr. HITT. I have not made any agreement.

Mr. HOOKER. I ask the chairman of the committee to yield to me for a moment?

Mr. HITT. Certainly.

Mr. HOOKER. I do not rise for the purpose of making a speech upon the bill and the report of the committee of conference which is submitted by the gentleman from Illinois from the committee of which I am a member, but I simply desire to say that so far as the bill proposes, by the amendment of the Senate, to subsidize a submarine telegraph line from San Francisco to Honolulu, in the hands of a private company, I, as a member of the committee, oppose it, and agree with my friend from Kentucky in the view which he has expressed on the subject.

Mr. HITT. And agree in voting with me.

Mr. HOOKER. Undoubtedly; and agree in voting with my friend from Illinois. But I was going to add that with that exception and a difference of opinion on that matter, this report is unanimous from the

committee, and I hope the chairman's request will be complied with and that we will have a vote on the motion he submits.

The SPEAKER. The question is on the motion to nonconcur.

Mr. HOLMAN. On that let us have the yeas and nays.

Mr. McCREARY. I ask the yeas and nays.

The yeas and nays were ordered.

Mr. CANNON. Is this question on nonconcurrency?

The SPEAKER. It is.

Mr. HITT. Before the yeas and nays are called I wish the Chair to state that the proposition is to nonconcur in this amendment and that everybody is in favor of that motion.

Mr. McCREARY. But we want such a vote in the House as will strengthen the committee of conference.

Mr. PERKINS. Why waste the time taking the yeas and nays? Everybody will stand up for it.

The SPEAKER. This debate is out of order.

The Clerk will call the roll.

The question was taken; and there were—yeas 223, nay 0, not voting 106; as follows:

YEAS—223.

Adams,	Davidson,	Lester, Va.	Richardson,
Alderson,	De Lauro,	Lewis,	Robertson,
Allen, Mich.	Dickersop,	Lind,	Rogers,
Anderson, Kans.	Dingley,	Lodge,	Rowell,
Anderson, Miss.	Dockery,	Martin, Ind.	Rowland,
Andrew,	Dolliver,	Martin, Tex.	Russell,
Arnold,	Dorsey,	Mason,	Sawyer,
Atkinson, W. Va.	Dunnell,	McAdoo,	Sayers,
Baker,	Dunphy,	McClellan,	Scranton,
Bankhead,	Ellis,	McCord,	Seull,
Barnes,	Evans,	McCormick,	Seney,
Bayne,	Farquhar,	McCreary,	Sherman,
Belden,	Featherston,	McKenna,	Shively,
Belknap,	Finley,	McKinley,	Simonds,
Bergen,	Fitch,	McMillin,	Smith, Ill.
Blanchard,	Fithian,	McRae,	Smith, W. Va.
Bliss,	Flood,	Miles,	Smyser,
Blount,	Forman,	Miller,	Snider,
Boothman,	Forney,	Mills,	Spinola,
Boutelle,	Fowler,	Moffitt,	Spooner,
Bowden,	Funston,	Montgomery,	Spensherson,
Brewer,	Gear,	Moore, N. H.	Stewart, Tex.
Brookshire,	Geary,	Moore, Tex.	Stewart, Vt.
Brosius,	Gest,	Morey,	Stivers,
Brown, J. B.	Goodnight,	Morgan,	Stockbridge,
Browne, Va.	Greenhalge,	Morrill,	Stockdale,
Brunner,	Grimes,	Morse,	Stone, Pa.
Buchanan, N. J.	Grosvenor,	Mudd,	Struble,
Bynum,	Groat,	Mutcher,	Sweet,
Caldwell,	Hall,	Norton,	Sweny,
Candler, Ga.	Hare,	Nute,	Tarsney,
Cannon,	Harmer,	Oates,	Taylor, Tenn.
Caruth,	Hatch,	O'Donnell,	Taylor, J. D.
Caswell,	Haugen,	O'Neill, Ind.	Thomas,
Catchings,	Hays, E. T.	O'Neill, Mass.	Tillman,
Chandle,	Haynes,	O'Neill, Pa.	Tucker,
Cheatam,	Herbert,	Osborne,	Turner, Ga.
Chipman,	Hermann,	Owen, Ind.	Turner, Kans.
Claney,	Hill,	Owens, Ohio	Turner, Va.
Clark, Wyo.	Hitt,	Parrett,	Vaux,
Cobb,	Holman,	Payne,	Wade,
Cogswell,	Hooker,	Paynter,	Walker,
Comstock,	Kelley,	Payson,	Wallace, Mass.
Connell,	Kerr, Iowa	Peel,	Washington,
Cooper, Ind.	Kerr, Pa.	Pennington,	Wheeler, Ala.
Cothran,	Ketcham,	Perkins,	Wheeler, Mich.
Covert,	Kinsey,	Pickler,	Whitelaw,
Cowles,	Knapp,	Pierce,	Wickham,
Craig,	Lacey,	Post,	Wike,
Crisp,	La Follette,	Price,	Williams, Ohio
Culbertson, Tex.	Lane,	Pugsley,	Wilson, Mo.
Culbertson, Pa.	Langston,	Quinn,	Wilson, Wash.
Cummings,	Lanham,	Raines,	Wilson, W. Va.
Cutcheon,	Lansing,	Randall,	Wright,
Dalzell,	Lawler,	Reed, Iowa	Yardley.
Darlington,	Lehlbach,	Reyburn,	

NAY—0.
NOT VOTING—106.

Abbott,	Clarke, Ala.	Kennedy,	Skinner,
Allen, Miss.	Clark, Wis.	Kilgore,	Springer,
Atkinson, Pa.	Clements,	Laidlaw,	Stahlnecker,
Banks,	Clunie,	Laws,	Stewart, Ga.
Bartine,	Coleman,	Lee,	Stone, Ky.
Barwig,	Cooper, Ohio	Lester, Ga.	Stone, Mo.
Beckwith,	Crain,	Magner,	Stump,
Biggs,	Dargan,	Maish,	Taylor, Ill.
Bingham,	Dibble,	Mansur,	Taylor, E. B.
Bland,	Edmunds,	McClammy,	Thompson,
Boatner,	Enloe,	McComas,	Townsend, Colo.
Breckinridge, Ark.	Ewart,	McDuffie,	Townsend, Pa.
Breckinridge, Ky.	Flick,	Milliken,	Tracey,
Briekner,	Flower,	Morrow,	Turner, N. Y.
Brower,	Frank,	Nedringhaus,	Van Schaick,
Browne, T. M.	Geissenhainer,	O'Ferrall,	Waddill,
Buchanan, Va.	Gibson,	Outhwaite,	Wallace, N. Y.
Buckalew,	Gifford,	Perry,	Whiting,
Bullock,	Hansbrough,	Peters,	Whitthorne,
Bunn,	Hayes, W. I.	Pindar,	Wiley,
Burrows,	Heard,	Quackenbush,	Wilkinson,
Burton,	Hemphill,	Ray,	Willcox,
Butterworth,	Henderson, Ill.	Reilly,	Williams, Ill.
Campbell,	Henderson, Iowa	Rife,	Wilson, Ky.
Candler, Mass.	Henderson, N. C.	Rockwell,	Yoder.
Carlton,	Hopkins,	Rusk,	
Carter,	Hauk,	Sanford,	

So the motion was agreed to

The following additional pairs were announced:

Mr. ATKINSON, of West Virginia, with Mr. BIGGS.

Mr. BECKWITH with Mr. McCLAMMY.

Mr. BROWER with Mr. ABBOTT.

Mr. FRANK with Mr. PERRY.

Mr. BARTINE with Mr. BLAND.

Mr. ROCKWELL with Mr. LESTER, of Georgia.

Mr. CANDLER, of Massachusetts, with Mr. HENDERSON, of North Carolina.

Mr. McCOMAS with Mr. CLEMENTS.

Mr. CARTER with Mr. WILLIAMS, of Illinois.

Mr. RAY with Mr. BUNN.

Mr. VAN SCHAICK with Mr. PINDAR.

Mr. MILLIKEN with Mr. DIBBLE.

Mr. BAKER with Mr. WIKE.

Mr. TAYLOR, of Illinois, with Mr. CRATN.

Mr. MORRELL with Mr. TURNER, of New York.

The result of the vote was then announced as above recorded.

Mr. HITT. Now, Mr. Speaker, I move that the House insist upon its disagreement and ask a further conference with the Senate on the disagreeing votes on the remaining amendment.

Mr. McCREARY. I understand the gentleman to ask a conference on the disagreeing votes of the two Houses on this last amendment?

Mr. HITT. That was my request.

The motion of Mr. HITT was agreed to.

The SPEAKER *pro tempore* (Mr. ALLEN, of Michigan) announced the appointment of Mr. HITT, Mr. MORROW, and Mr. McCREARY as managers at the conference on the part of the House.

Mr. HOLMAN. Has there been a motion to nonconcur in the other amendments?

The SPEAKER *pro tempore*. The report of the committee was adopted, which recommended concurrence in all of the other amendments, except this one, on which a committee of conference has just been appointed.

Mr. HOLMAN. I thought it was nonconcurrency in all.

Mr. HITT. No; only on one amendment.

Mr. McCREARY. That is correct; we nonconcurrred in the amendment referring to the submarine cable.

Mr. HITT. And on that the House has just ordered a further conference.

Mr. HOLMAN. I do not think the other amendments ought to have been adopted, at least three of them; but since the matter has gone through in that shape, I suppose there is no way of remedying it now.

TESTIMONY ON THE SILVER QUESTION.

Mr. VAUX. Mr. Speaker, I ask unanimous consent to make a correction in a resolution which was passed by the House without objection this morning. I refer to the resolution ordering the printing of certain testimony. The resolution omitted the usual form—"the Senate concurring." I move to add those words, and I will offer the resolution for re adoption as corrected.

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

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That 10,000 copies of the testimony taken before the Committee on Coinage, Weights, and Measures, together with the accompanying report (No. 3367) be printed; 6,000 copies to be for the use of the House of Representatives and 4,000 copies for the use of the Senate.

The SPEAKER *pro tempore*. The Chair will state that this resolution was adopted this morning, but that it is now presented in an amended form, making it a concurrent resolution. Is there objection to its present consideration?

There being no objection, the resolution was considered and agreed to.

MARY C. HOFFMAN.

Mr. BELKNAP. I wish to offer a conference report.

The Clerk read as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12312) to grant a pension to Mary C. Hoffman, widow of General William Hoffman, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House concur in the Senate amendment and agree to the same.

JNO. G. SAWYER,

C. E. BELKNAP,

S. S. YODER,

Managers on the part of the House.

PHILETUS SAWYER,

A. S. PADDOCK,

DAVID TURPIE,

Managers on the part of the Senate.

STATEMENT.

The bill as it passed the House fixed the rate at \$30 per month. The Senate amended by making the rate \$50 per month. The effect of this report is to leave the rate of pension as fixed by the Senate.

JNO. G. SAWYER,

C. E. BELKNAP,

S. S. YODER,

Managers on the part of the House.

The conference report was agreed to.

Mr. BELKNAP moved to reconsider the vote by which the conference report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HERMANN. Mr. Speaker, I have a conference report.

Mr. MCKINLEY. I ask the gentleman to yield to me for a moment to make a privileged motion. I move that when we have concluded the memorial services to-day, and that when the House adjourn, it be to meet at 8 o'clock this evening.

The SPEAKER. The Chair understands that has already been agreed to.

Mr. MCKINLEY. I understood objection was made.

The SPEAKER. That has been agreed to.

A. D. WEDDERBURN.

Mr. LEE. Mr. Speaker, I ask unanimous consent to have printed in the RECORD a statement in regard to the Wedderburn case. Mr. Wedderburn was charged by the United States authorities with defrauding the mails. The grand jury have declined or refused to find a true bill against him, and as the report in the case went into the RECORD, I think in justice to him a letter which I have here, confirming the fact which I have stated, should be printed in the RECORD also, showing that the grand jury refused to indict him.

The SPEAKER. Without objection, the document referred to by the gentleman from Virginia will be printed in the RECORD.

There was no objection.

The letter referred to is as follows:

OFFICE OF SAMUEL G. BRENT, CORPORATION ATTORNEY,
Alexandria, Va., February 25, 1891.

DEAR SIR: The United States grand jury which met here yesterday ignored the bills of indictment preferred against Mr. A. J. Wedderburn for violations of the postal laws at Grange Camp post office, Va. Four bills of indictment were presented and upon each was the indorsement of the grand jury "Not a true bill." There being no other charge against Mr. Wedderburn he was discharged from custody.

Very truly,

Hon. W. H. F. LEE.

The above is correct.

SAM'L G. BRENT.

JOHN S. FOWLER, Clerk.

LEAVE TO PRINT.

Mr. ROGERS. A parliamentary inquiry. The gentleman from Ohio [Mr. EZRA B. TAYLOR] promised this morning that he would ask the consent of the House that those gentlemen who had addressed the House on the subject of the judicial reorganization might extend their remarks. I desire to know whether that leave was granted.

The SPEAKER. It was granted.

INDIAN DEPREDAATION CLAIMS.

Mr. HERMANN. I desire to present the following conference report:

The Clerk read as follows.

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 8150), "An act to provide for the adjudication and payment of claims arising from Indian depredations," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows; so that the bill as amended will read:

"An act to provide for the adjudication and payment of claims arising from Indian depredations.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the jurisdiction which now is, or may hereafter be, conferred upon the Court of Claims, said court shall have and possess jurisdiction and authority to inquire into and finally adjudicate, in the manner provided in this act, all claims of the following classes, namely:

"First. All claims for property of citizens of the United States taken or destroyed by Indians belonging to any tribe or nation in amity with the United States, without just cause or provocation on the part of the owner or agent in charge, and not returned or paid for.

"Second. Such jurisdiction shall also extend to all cases which have been examined and allowed by the Interior Department, and also to such cases as were authorized to be examined under the act of Congress making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1885, and for other purposes, approved March 3, 1885, and under subsequent acts, subject, however, to the limitations hereinafter provided.

"Third. All just offsets and counterclaims to any claim of either of the preceding classes which may be before such court for determination.

"Sec. 2. That all questions of limitations as to time and manner of presenting claims are hereby waived, and no claim shall be excluded from the jurisdiction of the court because not heretofore presented to the Secretary of the Interior or other officer or Department of the Government: *Provided*, That no claim accruing prior to July 1, 1855, shall be considered by the court unless the claim has been allowed or has been or is pending, prior to the passage of this act, before the Secretary of the Interior, or the Congress of the United States, or before any superintendent, agent, subagent, or commissioner, authorized under any act of Congress to inquire into such claims; but no case shall be considered pending unless evidence has been presented therein: *And provided further*, That all claims existing at the time of the taking effect of this act shall be presented to the court by petition, as hereinafter provided, within three years after the passage hereof, or shall be thereafter forever barred: *And provided further*, That no suit or proceeding shall be allowed under this act for any depredation which shall be committed after the passage thereof.

"Sec. 3. That all claims shall be presented to the court by petition setting forth in ordinary and concise language, without unnecessary repetition, the facts upon which such claims are based, the persons, classes of persons, tribe or tribes, or band of Indians by whom the alleged illegal acts were committed, as near as may be, the property lost or destroyed, and the value thereof, and any other facts connected with the transactions and material to the proper adjudication of the case involved. The petition shall be verified by the affidavit of the claimant, his agent, administrator, or attorney, and shall be filed with the clerk of the said court. It shall set forth the full name and residence of the claimant, the damages sought to be recovered, praying the court for a judgment upon the facts and the law.

"Sec. 4. The service of the petition shall be made upon the Attorney-General of the United States in such manner as may be provided by the rules or orders of said court. It shall be the duty of the Attorney-General of the United States to appear and defend the interests of the Government and of the Indians in the suit, and within sixty days after the service of the petition upon him, unless the time shall be extended by order of the court made in the case, to file a plea, answer, or demurrer on the part of the Government and the Indians, and to file a notice of any counterclaim, set-off, claim of damage, demand, or defense whatsoever of the Government or of the Indians in the premises: *Provided*, That should the Attorney-General neglect or refuse to file the plea, answer, demurrer, or defense as required, the claimant may proceed with the case under such rules as the court may adopt in the premises; but the claimant shall not have judgment for his claim, or for any part thereof, unless he shall establish the same by proof satisfactory to the court: *Provided*, That any Indian or Indians interested in the proceedings may appear and defend, by an attorney employed by such Indian or Indians with the approval of the Commissioner of Indian Affairs, if he or they shall choose so to do.

"In considering the merits of claims presented to the court, any testimony, affidavits, reports of special agents or other officers, and such other papers as are now on file in the Departments or in the courts, relating to any such claims, shall be considered by the court as competent evidence, and such weight given thereto as in its judgment is right and proper: *Provided*, That all unpaid claims which have heretofore been examined, approved, and allowed by the Secretary of the Interior, or under his direction, in pursuance of the act of Congress making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1885, and for other purposes, approved March 3, 1885, and subsequent Indian appropriation acts shall have priority of consideration by such court, and judgments for the amounts therein found due shall be rendered, unless either the claimant or the United States shall elect to reopen the case and try the same before the court, in which event the testimony in the case given by the witnesses and the documentary evidence, including reports of Department agents therein, may be read as depositions and proofs: *Provided*, That the party electing to reopen the case shall assume the burden of proof.

"Sec. 5. That the said court shall make rules and regulations for taking testimony in the causes herein provided for, by deposition or otherwise, and such testimony shall be taken in the county where the witness resides, when the same can be conveniently done, and no person shall be excluded as a witness because he is party to or interested in said suit, and any claimant or party in interest may be examined as a witness on the part of the Government; that the court shall determine in each case the value of the property taken or destroyed at the time and place of the loss or destruction, and, if possible, the tribe of Indians or other persons by whom the wrong was committed, and shall render judgment in favor of the claimant or claimants against the United States, and against the tribe of Indians committing the wrong, when such tribe can be identified.

"Sec. 6. That the amount of any judgments so rendered against any tribe of Indians shall be charged against the tribe by which, or by members of which, the court shall find that the depredation was committed, and shall be deducted and paid in the following manner: First, from annuities due said tribe from the United States; second, if no annuities are due or available, then from any other funds due said tribe from the United States arising from the sale of their lands or otherwise; third, if no such funds are due or available, then from any appropriation for the benefit of said tribe, other than appropriations for their current and necessary support, subsistence, and education; and, fourth, if no such annuity, fund, or appropriation is due or available, then the amount of the judgment shall be paid from the Treasury of the United States: *Provided*, That any amount so paid from the Treasury of the United States shall remain a charge against such tribe, and shall be deducted from any annuity, fund, or appropriation heretofore designated which may hereafter become due from the United States to such tribe.

"Sec. 7. That all judgments of said court shall be a final determination of the causes decided and of the rights and obligations of the parties thereto, and shall not thereafter be questioned unless a new trial or rehearing shall be granted by said court, or the judgment reversed or modified upon appeal as hereafter provided.

"Sec. 8. That immediately after the beginning of each session of Congress the Attorney-General of the United States shall transmit to the Congress of the United States a list of all final judgments rendered in pursuance of this act in favor of claimants and against the United States and not paid as hereinbefore provided, which shall thereupon be appropriated for in the proper appropriation bill.

"Sec. 9. That all sales, transfers, or assignments of any such claims heretofore or hereafter made, except such as have occurred in the due administration of decedents' estates, and all contracts heretofore made for fees and allowances to claimants' attorneys, are hereby declared void, and all warrants issued by the Secretary of the Treasury in payment of such judgments shall be made payable and delivered only to the claimant or his lawful heirs, executors, or administrators, or transferees under administrative proceedings, except so much thereof as shall be allowed the claimant's attorneys by the court for prosecuting said claim, which may be paid direct to such attorneys, and the allowances to the claimant's attorneys shall be regulated and fixed by the court at the time of rendering judgment in each case and entered of record as part of the findings thereof; but in no case shall the allowance exceed 15 per cent. of the judgment recovered, except in case of claims of less amount than \$300, or where unusual services have been rendered or expenses incurred by the claimant's attorney, in which case not to exceed 20 per cent. of such judgment shall be allowed by the court.

"Sec. 10. That the claimant or the United States or the tribe of Indians or other party thereto interested in any proceeding brought under the provisions of this act shall have the same rights of appeal as are or may be reserved in the statutes of the United States in other cases and upon the conditions and limitations therein contained. The mode of procedure in claiming and perfecting an appeal shall conform in all respects as near as may be to the statutes and rules of court governing appeals in other cases.

"Sec. 11. That all papers, reports, evidence, records, and proceedings now on file or of record in any of the Departments, or the office of the Secretary of the Senate, or the office of the Clerk of the House of Representatives, or certified copies of the same, relating to any claims authorized to be prosecuted under this act, shall be furnished to the court upon its order, or at the request of the Attorney-General.

"Sec. 12. To facilitate the speedy disposition of the cases herein provided for in said Court of Claims, there shall be appointed, in the manner prescribed by

law for the appointment of Assistant Attorneys-General, one additional Assistant Attorney-General of the United States, who shall receive a salary of \$2,500 per annum.

"Sec. 13. That the investigation and examinations, under the provisions of the acts of Congress heretofore in force, of Indian deprecation claims shall cease upon the taking effect of this act, and the unexpended balance of the appropriation therefor shall be covered into the Treasury, except so much thereof as may be necessary for disposing of the unfinished business pertaining to the claims now under investigation in the Interior Department pending the transfer of said claims and business to the court or courts herein provided for, and for making such transfers and a record of the same, and for the proper care and custody of the papers and records relating thereto."

And that the Senate agree to the same.

BINGER HERMANN,
B. W. PERKINS,
SILAS HARE,
Managers on the part of the House.
G. C. MOODY,
A. S. PADDOCK,
CHAS. J. FAULKNER,
Managers on the part of the Senate.

Mr. HOLMAN. I think there should be some explanation of this report, and I ask that the statement be read.

The statement of the managers on the part of the House was read, as follows:

STATEMENT.

The conferees in this agreement take as a basis the Senate amendments, the modifications of which are as follows:

In section 1 of the Senate amendment there is added a provision extending the jurisdiction to such cases as were provided for in previous acts of Congress and such as have been examined and allowed by the Interior Department.

The Senate recedes from so much of the Senate amendment as confers concurrent jurisdiction upon the district and circuit courts of the United States, leaving the jurisdiction with the Court of Claims exclusively; the difference between the House bill and the Senate amendment, therefore, being that in the House bill a new tribunal was proposed to be created for the adjudication of these claims, and by the bill as agreed to in conference the jurisdiction is placed in the Court of Claims. Various provisions of the original House bill are retained in the present amendment.

The only material amendment to the Senate amendment, except such as above stated, relates to the limitation upon the allowances to be made to claimants' attorneys.

The various officers provided for in the House bill are rendered unnecessary by the conference agreement, except so far as relates to the appointment of an Assistant Attorney-General to facilitate the speedy disposition of these cases in the Court of Claims.

BINGER HERMANN,
B. W. PERKINS,
SILAS HARE,
Managers on the part of the House.

Mr. HERMANN. I move the adoption of the conference report.

Mr. PAYSON. Mr. Speaker, I desire to ask the gentleman from Oregon [Mr. HERMANN] if there is any change in this bill with reference to the prosecution of these claims as to the issuing of drafts in payment? There was a provision in the House bill that the payment should be made to the parties themselves.

Mr. HERMANN. The court is authorized to determine what fee shall be paid to attorneys, with certain maximum limitations prescribed.

Mr. PAYSON. Has the House provision been changed by the Senate?

Mr. HERMANN. Not materially, except to restrict the attorneys' fee.

Mr. PAYSON. I wish that part of it could be read.

Mr. HERMANN. I will read the section that bears upon that subject:

SEC. 9. That all sales, transfers, or assignments of any such claims heretofore or hereafter made, except such as have occurred in the due administration of decedents' estates, and all contracts heretofore made for fees and allowances to claimants' attorneys, are hereby declared void, and all warrants issued by the Secretary of the Treasury, in payment of such judgments, shall be made payable and delivered only to the claimant or his lawful heirs, executors, or administrators or transferees under administrative proceedings, except so much thereof as shall be allowed the claimant's attorneys by the court for prosecuting said claim, which may be paid direct to such attorneys, and the allowances to the claimant's attorneys shall be regulated and fixed by the court at the time of rendering judgment in each case and entered of record as part of the findings thereof; but in no case shall the allowance exceed 15 per cent. of the judgment recovered, except in case of claims of less amount than \$500, or where unusual services have been rendered or expenses incurred by the claimant's attorney, in which case not to exceed 20 per cent. of such judgment shall be allowed by the court.

Mr. PAYSON. That is in the bill as it reads now.

Mr. HERMANN. That is in the conference report. We desire to fix the limit and not leave it entirely discretionary with the court.

Mr. PETERS. I would like to inquire if the judgment obtained in these matters is final.

Mr. HERMANN. Yes, it is final.

The conference report was agreed to.

Mr. HERMANN moved to reconsider the vote by which the conference report was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. KENNEDY, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled the bill (H. R. 12922) making appropriation for the support of the Military Academy for the fiscal year ending June 30, 1892; when the Speaker signed the same.

LORENZO S. COFFIN.

Mr. OSBORNE. Mr. Speaker, I present a conference report.
The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 11098) for the relief of Lorenzo S. Coffin, late chaplain Thirty-sixth Regiment Iowa Volunteers, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

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

E. S. OSBORNE,
E. S. WILLIAMS,
F. B. SPINOLA,
Managers on the part of the House.
JOSEPH R. HAWLEY,
CHARLES F. MANDERSON,
FRANCIS M. COCKRELL,
Managers on the part of the Senate.

The statement of the House conferees is as follows:

The effect of the conference report on this bill is as follows:
The House bill provides that the charge of absence without proper authority standing against said Lorenzo S. Coffin be removed, and the Secretary of War be authorized to issue to him an honorable discharge.

The Senate amendments, in which it is recommended that the House concur, provide that the President of the United States be authorized to revoke the order dismissing said Coffin for being absent without proper authority, so far as it relates to and affects said Coffin, and grants to him an honorable muster-out of the service of the date of his dismissal; also that the title to such bill be amended so as to correspond with the body of the bill.

E. S. OSBORNE,
E. S. WILLIAMS,
F. B. SPINOLA.

The SPEAKER. The question is on the adoption of the report.
The question was put, and the report of the committee of conference was adopted.

WILLIAM P. ATWELL.

Mr. OSBORNE. Mr. Speaker, I have another conference report, which I send to the desk.

Mr. HOLMAN. Mr. Speaker, I hope the title of the bill will be read.
The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S. 209) to authorize the Secretary of War to cause to be mustered William P. Atwell, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree thereto with an amendment as follows: Strike out the words "at the time said regiment was mustered out of the service" and in lieu thereof insert the words "November 22, 1864;" and the House agree to the same.

E. S. OSBORNE,
FREDERICK LANSING,
Managers on the part of the House.
CHARLES F. MANDERSON,
CUSHMAN K. DAVIS,
FRANCIS M. COCKRELL,
Managers on the part of the Senate.

The statement of the House conferees is as follows:

The difference between the House bill and the bill as amended by the Senate, and as fixed by your committee of conference, relates simply to the date of the soldier's discharge, the House fixing the same at November 18, 1864, and the conference placing the date at the time the soldier's regiment was mustered out of the service.

E. S. OSBORNE,
F. LANSING.

The SPEAKER. The question is on the adoption of the report of the committee of conference.

The question was put; and the report of the committee of conference was adopted.

Mr. OSBORNE moved to reconsider the votes by which the reports of the committees of conference were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCook, its Secretary, announced that the Senate had passed without amendment the bill (H. R. 12993) to authorize the Fort Gibson, Tahlequah and Great Northeastern Railway Company to construct and operate a railway through the Indian Territory, and for other purposes.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 172) to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861.

The message also announced that the Senate had passed the following concurrent resolution:

Resolved by the House of Representatives (the Senate concurring), That there be printed of the eulogies delivered in Congress upon the late Lewis F. Watson, a Representative in the Fifty-first Congress from the State of Pennsylvania, 12,000 copies; of which 3,000 copies shall be for the use of the Senate, and 9,000 shall be for the use of the House of Representatives; and the Secretary of the Treasury be, and he is hereby, directed to have printed a portrait of the said Lewis F. Watson to accompany said eulogies; that of the quota to the House of Representatives the Public Printer shall set apart 50 copies, which he shall have bound in full morocco, with gilt edges, the same to be delivered when completed to the family of the deceased.

The message also announced that the Senate requests the House of Representatives to return to the Senate the bill (H. R. 182) for the erec-

tion of United States prisons and for the imprisonment of United States prisoners, and for other purposes.

The message also announced that the Senate had passed the following concurrent resolution:

Resolved by the Senate (the House of Representatives concurring therein), That the Committee on Public Printing, with two members of the present House of Representatives who are re-elected to the next Congress, to be appointed by the Speaker of the House of Representatives, or any subcommittee of said special joint committee, are hereby instructed to examine into the numbers printed of the various documents, reports, bills, and other papers published by order of Congress, or of either House thereof, and of the CONGRESSIONAL RECORD, and to report a bill in December next, making such reductions in the numbers and cost of printing, and such changes and reduction in the distribution of said publications as they may deem expedient, with a report giving their reasons therefor; and that the said committee is also instructed to investigate the printing and binding for the Executive Departments executed at the Government Printing Office and at the branch printing offices and binderies in the various Departments, and report a bill in December next, making such reductions in expenses and imposing such checks as they may deem expedient, with a report giving their reasons therefor; and said committee is further instructed to make any other investigation calculated in their opinion to reduce the cost of the public printing, and report the result thereof; and the said committee is hereby authorized to employ a stenographer, to summon and examine experts and witnesses, and to call upon the heads of Executive Departments and the Public Printer for such information regarding the preceding matters as they may desire; and any expenses necessarily incurred in making the investigations aforesaid shall be defrayed from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee on Printing.

The message also announced that the Senate had passed the bill (H. R. 3865) to provide for the reorganization of the artillery force of the Army with amendments, asked a conference with the House on the bill and amendments, and had appointed Mr. HAWLEY, Mr. MANDERSON, and Mr. COCKRELL as the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 5013) to amend the charter of the Rock Creek Railway Company of the District of Columbia;

A bill (S. 5109) granting a pension to Georgie Ann Porter; and

A bill (S. 5125) to provide for the examination and survey for a breakwater to form a harbor of safety and refuge in Lynnhaven Bay, near Cape Henry, at the foot of Chesapeake Bay, Virginia.

A further message from the Senate, by Mr. McCook, its Secretary, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on bills of the following titles:

A bill (H. R. 13218) to define the jurisdiction of the police court of the District of Columbia;

A bill (H. R. 9798) to establish a United States land court and to provide for a judicial investigation and settlement of private land claims in the Territories of Utah and New Mexico, and the States or Colorado, Nevada, and Wyoming; and

A bill (H. R. 11736) to regulate the granting of leases at Hot Springs, Ark., and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H. R. 13069) making appropriations for the diplomatic and consular service of the United States for the fiscal year ending June 30, 1892, disagreed to by the House of Representatives, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. ALLISON, and Mr. BLACKBURN as the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 13462) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1892, and for other purposes, disagreed to by the House of Representatives, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. ALLISON, Mr. HALE, and Mr. GORMAN as the conferees on the part of the Senate.

A further message from the Senate, by Mr. McCook, its Secretary, announced that the Senate insists upon its amendments to the bill (H. R. 13049) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1892, and for other purposes, disagreed to by the House of Representatives, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. ALLISON, Mr. DAWES, and Mr. COCKRELL as the conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. PRUDEN, one of his Secretaries, announced the approval of the following acts:

An act (H. R. 12841) granting an increase of pension to General Isaac F. Quinby;

An act (H. R. 1804) granting a pension to Henry H. Knopp;
 An act (H. R. 3258) granting a pension to Hannah Cummins;
 An act (H. R. 4906) granting a pension to William C. Young;
 An act (H. R. 5199) granting a pension to Elizabeth Johnson;
 An act (H. R. 7524) granting a pension to Mary Morgan Esdon;
 An act (H. R. 7786) granting a pension to Mrs. Rachel Wright;
 An act (H. R. 7924) granting a pension to Christine C. Whistler;
 An act (H. R. 9034) granting a pension to Anna Horrell;
 An act (H. R. 9293) granting a pension to Joel Hendricks;
 An act (H. R. 9668) granting a pension to Elizabeth P. Satterfield;

An act (H. R. 9724) granting a pension to Mary A. R. Martin;
 An act (H. R. 9763) granting a pension to Tunis S. Danford;
 An act (H. R. 9921) granting a pension to William P. Holl;
 An act (H. R. 10127) granting a pension to Celia Eichele;
 An act (H. R. 10224) granting a pension to William A. Osborn;
 An act (H. R. 10294) granting a pension to Matilda M. Harriman;
 An act (H. R. 10355) granting a pension to Mrs. Louisa M. Gordon;
 An act (H. R. 10432) granting a pension to Nancy Shotwell;
 An act (H. R. 10483) granting a pension to Marcellus A. Stovall;
 An act (H. R. 10683) granting a pension to Millie A. Ritenour;
 An act (H. R. 10727) granting a pension to Ira Agam;
 An act (H. R. 10865) granting a pension to Mary Swift;
 An act (H. R. 11926) granting a pension to Ira A. Stout;
 An act (H. R. 12278) granting a pension to Marion McKibben;
 An act (H. R. 3952) for the relief of Henry A. King;
 An act (H. R. 4033) for the relief of Mrs. Agnes Findley Halsey, who served as nurse in the late war under the name of Miss Agnes Findley;
 An act (H. R. 5093) for the relief of Margaret A. Myers;
 An act (H. R. 8162) for the relief of Thomas Crawford, of Louisville, Ky.;

An act (H. R. 9429) for the relief of Elizabeth Truax;
 An act (H. R. 5895) to grant a pension to Hannah Hurst;
 An act (H. R. 8119) to grant a pension to Margaret Hawkins;
 An act (H. R. 10323) to pension Francis E. Bidwell;
 An act (H. R. 1870) granting an increase of pension to Maria L. Hammer;
 An act (H. R. 9876) granting an increase of pension to Mrs. Agnes B. Collins;
 An act (H. R. 9576) to increase the pension of Mrs. Mary Jane Malory;

An act (H. R. 10324) to increase the pension of Edward Jardine;
 An act (H. R. 8913) increasing the pension of Mrs. Ruth M. Allen;
 An act (H. R. 1738) granting a pension to Philip H. Emmert;
 An act (H. R. 3174) granting a pension to Mrs. Frederika B. Jones;
 An act (H. R. 5239) granting a pension to Mary Hyde;
 An act (H. R. 7146) granting a pension to Andrew J. Wallace;
 An act (H. R. 7147) granting a pension to B. Jones;
 An act (H. R. 9493) granting a pension to Edwin Cotton, late musician Twenty-fourth Regiment Michigan Volunteer Infantry;
 An act (H. R. 9530) granting a pension to Ellen Guffey, a hospital nurse;

An act (H. R. 9575) granting a pension to Dr. Francis Lambert;
 An act (H. R. 10817) granting a pension to Elvira Brooks, widow of Odney D. Brooks, late assistant surgeon Twenty-sixth Michigan Volunteers;

An act (H. R. 10858) granting a pension to Mary D. Jones;
 An act (H. R. 10990) granting a pension to Sarah A. Phelps;
 An act (H. R. 11077) granting a pension to Sarah Hutchins;
 An act (H. R. 11215) granting a pension to Joel H. Holden;
 An act (H. R. 11243) granting a pension to Sarah H. Philp;
 An act (H. R. 11640) granting a pension to Mary B. Cook;
 An act (H. R. 11641) granting a pension to Anna S. Shuman;
 An act (H. R. 11806) granting a pension to Mary Buckland;
 An act (H. R. 12071) granting a pension to Catherine M. Roberts;
 An act (H. R. 12305) granting a pension to Ruth E. Fargeson;
 An act (H. R. 12525) granting a pension to Caroline J. Craft;
 An act (H. R. 12531) granting a pension to Walter Scott;
 An act (H. R. 12565) granting a pension to Mrs. Nancy Springer;
 An act (H. R. 12647) granting a pension to Susan Wood;
 An act (H. R. 12704) granting a pension to Lewis D. Terry;
 An act (H. R. 12757) granting a pension to Mary S. Day;
 An act (H. R. 12803) granting a pension to Alice O. Leighton, widow of Everett W. Leighton, deceased, Company C, Thirteenth New Hampshire Volunteers;

An act (H. R. 12826) granting a pension to Sarah A. Joiner;
 An act (H. R. 12864) granting a pension to Joseph Smith;
 An act (H. R. 12973) granting a pension to Sarah Steadman;
 An act (H. R. 13030) granting a pension to Jennie May Cain;
 An act (H. R. 13074) granting a pension to Emma Southwick Brin-ton;

An act (H. R. 13082) granting a pension to Mary Jane Allen;
 An act (H. R. 13140) granting a pension to Hetty A. Hasson;
 An act (H. R. 13212) granting a pension to George James;
 An act (H. R. 13295) granting a pension to Caroline A. Burghardt, an army nurse;

An act (H. R. 13297) granting a pension to Martha A. Wood Furgeson, an army nurse;
 An act (H. R. 13298) granting a pension to Florence Petigrew Lith-grow, an army nurse;
 An act (H. R. 13329) granting a pension to Solomon Mayberry;
 An act (H. R. 13442) granting a pension to Mary C. Broughton;
 An act (H. R. 13471) granting a pension to Elizabeth Mounts;
 An act (H. R. 2139) for the relief of Valeria B. Elliott;
 An act (H. R. 11877) for the relief of Jane Branigan;
 An act (H. R. 13213) to pension Mrs. Adeline S. Wilbur;
 An act (H. R. 13307) to pension Morgan D. Lane;

An act (H. R. 11349) to pension Nancy F. Glenn;
 An act (H. R. 12009) to pension Martha Tennery, widow of James H. Tennery, of Captain Griffin's Company, First Illinois, Black Hawk war;
 An act (H. R. 12550) to pension Robert Moore, of Kirkwood, Ill.;
 An act (H. R. 13174) to pension Absalom M. Wolf, of Mier, Ind.;
 An act (H. R. 13205) to pension Mary E. Dubridge;
 An act (H. R. 11348) to place the name of John W. Younger on the pension roll;
 An act (H. R. 12645) to place upon the pension rolls to name of Elizabeth Wolcott;
 An act (H. R. 5869) to increase the pension of James McMullin;
 An act (H. R. 11311) to increase the pension of Eugene A. Osborn;
 An act (H. R. 11461) to increase the pension of Washington M. Rice;
 An act (H. R. 12145) to increase the pension of Edwin H. Dill;
 An act (H. R. 12316) to increase the pension of Horace B. Seeley, captain Company K, Eighty-sixth Regiment New York Infantry Volunteers;
 An act (H. R. 12348) to increase the pension of William H. Head;
 An act (H. R. 12349) to increase the pension of William J. Mathias;
 An act (H. R. 12400) to increase the pension of Xenophon Peck;
 An act (H. R. 12457) to increase the pension of Thomas J. Polly;
 An act (H. R. 12608) to increase the pension of Thomas J. Hickey;
 An act (H. R. 13173) to increase the pension of John D. Terry;
 An act (H. R. 13271) to increase the pension of Alonzo R. Hyatt;
 An act (H. R. 13300) to increase the pension of John F. Whipple;
 An act (H. R. 9072) to increase the pension of Alexander Evans;
 An act (H. R. 11454) to increase the pension of Erastus D. Butler, of Togus, Me.;
 An act (H. R. 13041) to increase the pension of John Britton;
 An act (H. R. 12120) to increase the pension of Mary Condy Ringgold, mother of George H. Ringgold, late lieutenant colonel and deputy paymaster general, United States Army;
 An act (H. R. 12741) to increase the pension of Allen J. Maker;
 An act (H. R. 12902) to increase the pension of George W. Whitacre, of Huntington, Ind.;
 An act (H. R. 13111) to increase the pension of Ambrose B. Carlton; and
 An act (H. R. 13200) to increase the pension of William M. Boggs.

IMPEACHMENT OF JUDGE ALECK BOARMAN.

Mr. THOMPSON. I call up for consideration the report which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That Aleck Boorman, judge of the United States district court for the western district of the State of Louisiana, be impeached for high crimes and misdemeanors.

Mr. THOMPSON. I yield twenty minutes to the gentleman from Pennsylvania [Mr. McCORMICK].

Mr. McCORMICK. Mr. Speaker, the resolution which has just been read to the House is reported by the Judiciary Committee unanimously. The ground on which the committee so reported resulted from an investigation authorized by this House in the early part of the first session of the Fifty-first Congress, and as to the particular officer named in this resolution, the proceedings of investigation was inaugurated by reason of certain specifications presented to the Committee on the Judiciary by the honorable gentleman [Mr. BOATNER] who represents in this House the Fifth district of Louisiana.

Specific charges were made by that gentleman, and pursuant to an order of the committee, a subcommittee was sent to the State of Louisiana last November, and after taking testimony in the cities of Shreveport and New Orleans at considerable length, made their report to the full committee; and that committee send here a report directing the gentleman from Ohio [Mr. THOMPSON] to report a resolution that Aleck Boorman, district judge of the United States Federal court for the western district of Louisiana, be impeached for high crimes and misdemeanors.

Now, Mr. Speaker, if I can have the attention of the House, I promise in a very brief time to state as succinctly as I may the grounds upon which this resolution was based.

Mr. TURNER, of Georgia. Is the recommendation based upon the unanimous vote of the committee, or is there a minority report?

Mr. McCORMICK. I will state that the recommendation is based on the unanimous vote of the Committee on the Judiciary; and I may say in response to the interrogatory of my friend from Georgia that whilst this report is a unanimous report of the Committee on the Judiciary, there were a large number of the committee, it is proper for me to say, who based their judgment that this judge should be impeached upon additional grounds to those that the committee present in their report; but upon the particular grounds of impeachment reported by the committee all agree; and in discussing the evidence upon which this report is based I will refer first to the charges upon which all agree. These charges, in the language of the specifications, are as follows:

That said judge has used for his own purposes the funds paid into the registry of his court, and has unlawfully and corruptly failed and refused to decide causes in which the funds in dispute were or should have been in the registry

of his court, and also (additional charge) that the respondent repeatedly borrowed money from the marshal of this court, contrary to law.

Section 995 of the Revised Statutes of the United States provides that—

All moneys paid into any court of the United States or received by the officers thereof in any cause pending or adjudicated in such court shall be forthwith deposited with the Treasurer, an assistant treasurer, or a designated depository of the United States in the name and to the credit of such court: *Provided*, That nothing herein shall be construed to prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

Section 996 of the Revised Statutes is as follows:

No money deposited as aforesaid shall be withdrawn except by order of the judge or judges of said courts respectively, in term or in vacation, to be signed by such judge or judges, and to be entered and certified of record by the clerk; and every such order shall state the cause in or on account of which it is drawn.

Section 5505 provides that—

Every person who knowingly receives from the clerk or other officer of a court of the United States any money belonging in the registry of such court as a deposit, loan, or otherwise is guilty of embezzlement and shall be punished as prescribed in the preceding section.

And the rule of the court (rule 42) governing the court in admiralty cases provides—

That all moneys paid into the registry of the court shall be deposited in some bank designated by the court, and shall be so deposited in the name of the court, and shall not be drawn out except by check or checks signed by a judge of the court and countersigned by the clerk of the court, stating on whose account and for whose use it is drawn and for what suit and out of what fund in particular it is paid. The clerk shall keep a regular book containing a memorandum copy and copy of the checks so drawn and the date thereof.

Now, Mr. Speaker, these are the statutes and this the rule governing the payment of money into the registry of the court. But your committee found that this judge who is named in this resolution never at any time, until about the month of March, 1889, named a depository of the registry of the funds of his court at all, and we found further—I wish to discuss this grave matter as dispassionately as I may—we found further that this judge, sworn to uphold the law and execute it, was guilty of the crimes fixed by this statute, the crime of himself becoming the depository of the funds that were paid into the registry of his court, or that should have been paid into the registry of his court.

We find also, what appears to the committee to be the natural and logical result of such a flagrant violation of the law, to wit, that the judge in more than one case by subterfuge, by excuse, and without reason delayed the distribution of the funds so paid into the registry of the court so that litigants were prevented from receiving the money to which they were honestly and legitimately entitled. We find further that in one case which might be mentioned this state of affairs existed after all the parties in interest had consented to a decree of distribution.

For many months after that consent had been given and after repeated requests upon him this judge, in possession of the funds in person, by one excuse or another, by one subterfuge or another, delayed the persons entitled to this fund. And this, Mr. Speaker, occurred not in one single instance only, but it appears to have been the practice of this judge as to the registry funds, to constantly violate the plain provisions of the statute, which declares any citizen using such funds or receiving them for any purpose, including certainly the judge of the court, guilty of embezzlement.

On December 5, 1887, in a case in admiralty, a steamer called Prince having previously been sold, the net amount realized, namely, \$1,100, was paid into court.

By the records of the court that money appears to have been paid into the registry on December 5, 1887. The then clerk of the court died in October, 1888, and his successor was duly qualified in February, 1889, but he found no funds in the registry of the court, although no distribution whatever of this fund or of any part of it had been made from December 5, 1887, down to the time when the new clerk qualified for office in February, 1889. Yet we have the uncontradicted testimony of the clerk, Mr. Beattie, that in March, 1889, he received at the hands of the judge this \$1,100 as the proceeds of the steamer Prince.

This clerk, friendly to the judge, testified that at the time this money was paid to him the judge designated as a depository the Commercial National Bank of the city of Shreveport; yet we find, notwithstanding the testimony of the clerk, that the money was paid to him in March, 1889, that not one dollar was paid into the Commercial National Bank of Shreveport until May 5, 1890.

During the balance of the year 1889 we find sundry payments at sundry times out of this fund, amounting to about \$800; but no bank account, no deposit whatever, appears to have been made by the clerk anywhere, and the committee find that the judge under the law must certainly have been cognizant of this neglect of duty on the part of the clerk, if, indeed, this money was ever paid to the clerk at all.

Mr. WADDILL. Who originally paid the money to the judge? How did it get into his hands?

Mr. McCORMICK. There is no satisfactory evidence upon that subject. The record shows that on certain days certain moneys were paid into the registry of the court. There appears to have been no designated depository of the court funds; but, by reason of the death of the

clerk, and by reason of the appointment of his successor, and by reason of the exigencies of the situation, which required the clerk, when this committee began their investigation, to account for that fund, he had to testify that it came from some source, and he testified that he had received it at the hands of the judge.

But further upon that point, and in response to the inquiry of the gentleman from Virginia [Mr. WADDILL], the account of the first clerk was kept with a firm of merchants in Shreveport named Utz & Smith. On calling upon the merchants to give an account of their transactions with the clerk, we found that the money in the registry of the court, or that should have been there, was kept by this clerk with this firm without any other authority than his own sweet will.

But here we find, upon an examination of that account, with one of the members of that firm upon the stand, that on the 13th day of February, 1883, ten months before the death of the clerk, that firm paid to this same Judge Boarman, on a written order from the clerk, the entire amount of the funds in their hands, to wit, the sum of \$475. So that wherever we have found any funds belonging to the registry of this court, we have found them in the hands of Judge Boarman; and it seems to this committee, as it must seem to any unprejudiced mind, that there has been a palpable and flagrant violation of the statute by Judge Boarman.

Upon the other point embodied in this fourth specification—that is, the borrowing of money from the marshals of his court—the marshal appointed by President Cleveland and the marshal appointed since were both upon the stand, and both testified to repeated instances where the judge borrowed from them sums of money ranging from \$100 to \$300, and, although there was no direct evidence upon the subject, this committee were led to the conclusion irresistibly that the judge knew the marshal was committing the crime specified in the statute forbidding the use of the public moneys when he received them from the marshal.

These marshals both testified that, as a reason for asking the return of these moneys so borrowed by the judge, they would say to him, "We have to settle with the Government now, and we want you to pay up." So that it is not a stretch of the imagination, indeed I may say that it amounts almost to a demonstration, that as to the borrowing of these funds from the marshals those officers violated their duty, and the judge knew they were violating it and solicited them to the commission of the crime.

Many other charges were made against this judge which I will not stop to consider—except one. As to one charge, which was known in this investigation as that involving the "Jones cases," I will speak briefly. One of the cases out of which it grew is now pending in the Supreme Court of the United States; and the Judiciary Committee, although I think I may be allowed to say that the members were of one mind in regard to the transaction, refrained only from motives of delicacy from reporting their judgment upon it.

The charge is of this character: That in a certain suit wherein the United States was plaintiff and a man by the name of John R. Jones, of the city of Shreveport, defendant, the judge took jurisdiction whilst under financial obligations to the defendant—constant financial obligations both before and after the decision of the cases. The testimony shows that the accommodations first received by the judge from Jones were about coincident in time with the commencement of the suits. When the civil case was first tried a special verdict of the jury was found in favor of the United States. The court on motion set aside that verdict and granted a new trial. Upon the second trial the special counsel employed to represent the United States was, by the arbitrary and to my mind tyrannical conduct of the judge, denied an opportunity of presenting his reasons why the legal estoppel set up by the defendant should not prevail; and the judge directed a verdict in favor of the defendant.

The suit was for the recovery of damages for cutting timber on the Government lands, and it was like this: The defendant, John R. Jones, made entries of certain public lands in the State of Louisiana, and by the local land officer he was charged but \$1.25 an acre, when he should have been charged \$2.50 per acre. After the mistake was discovered the entries were canceled by the Land Office in Washington; and the defendant was then allowed to receive back the \$1.25 an acre on the ground that the land should have been sold for \$2.50 instead of \$1.25 per acre, Jones refusing to pay the \$2.50 per acre.

[Here the hammer fell.]

Mr. THOMPSON. I yield two minutes more to the gentleman.

Mr. MCCORMICK. Mr. Speaker, this suit was brought for the purpose of recovering the value of a large quantity of timber which Jones had cut off these lands between the time of the entries that he had mistakenly made and the return to him of the \$1.25 an acre. This judge held as a matter of law that because the United States had through its officer permitted the entries to be made, though at the wrong price, under the law, and had taken from the defendant a deed for whatever interest or supposed interest he might have acquired, the United States was estopped from claiming in the action of trespass the value of the timber. Upon that question a bill of exceptions was allowed, and the case is now pending in the Supreme Court of the United States.

Mr. Speaker, I have not sufficient time allotted to me to discuss this

matter at length. I regret that I have not. I believe that I have presented the facts, as far as I have been able, fairly, dispassionately, and I hope judicially—certainly with the intention of being fair.

There appears to be in that district such a well-founded distrust of the Federal court presided over by Judge Boarman as to be utterly destructive of his usefulness as a judge. The borrowing of public moneys from the marshal of his court on repeated occasions, extending over years; the receiving or using by the judge himself of the funds paid into the registry, in direct violation of the statute making such receiving or using a crime; the trial of certain cases where the judge was under financial obligations to one of the litigants, and his decision in favor of such litigant upon the legal questions involved in such a way as to do violence to what seemed to the members of the committee to be well-settled legal principles, furnish a sufficient warrant, it is believed, for the adoption of this resolution. The duty of this House, Mr. Speaker, under the provisions of the Constitution, is plain; and no considerations of sympathy for the accused nor any thought of his political affiliations should be permitted to swerve us from the performance of that duty. Let us without fear or favor firmly resolve to preserve unpolluted the fountain of justice. [Applause.]

Mr. THOMPSON. I yield twenty minutes to the gentleman from Alabama [Mr. OATES].

Mr. OATES. Mr. Speaker, as a member of the subcommittee which went to Louisiana and investigated the charges against Judge Boarman, I am glad to bear evidence to the fairness and impartiality with which that investigation was conducted by my colleagues and myself. The judge was notified of the time when the subcommittee would sit in Shreveport and take testimony, and when we arrived, in the latter part of November last, and proceeded to the examination of witnesses, he was present in person and by counsel during the entire time, and propounded questions to witnesses, but refrained from testifying himself in his own behalf.

He heard the testimony given by the witnesses upon which the committee found against him. These witnesses were not biased by partisan politics; they belonged some to the one and some to the other of the two great political parties. There was no conflict in their testimony. My two colleagues of the subcommittee are of the same politics as the judge—most pronounced Republicans—but as honest and honorable men they could do no more for him than to resolve doubts in his favor, which they did.

Every presumption which according to law could be indulged in favor of his innocence was indulged; and the report which was made to the full committee, and by that committee to the House, is one of forbearance rather than of severity.

I agreed with my colleagues in finding in his favor upon each one of the charges where the evidence was not overwhelming; but I was satisfied upon several of them that charges of impeachment ought to have been preferred and that they ought now to be.

In reference to the first one of these, which was a charge of corruptly usurping jurisdiction in the case between his personal friend Albert H. Leonard and the city of Shreveport, if standing alone the evidence would perhaps be insufficient to require him to answer before the bar of the Senate. But, when we look at the long line of complaints against him and see the number that are overwhelmingly sustained, I am persuaded that no presumption of innocence even of this charge can be indulged.

I have reduced my conclusion on this proposition to this language: That in respect to this charge of corrupt favoritism to Attorney Leonard, in the suit against the city of Shreveport, I am of the opinion that the judge felt willing to strain a point in favor of his warm personal friend, and did so, thereby subjecting himself to severe criticism, and which has, with similar conduct in other cases, resulted in the impairment—well near the destruction—of his usefulness as a judge. His rulings in the case referred to may not have been influenced by corrupt motive, but certainly deserve censure.

I wish to call the attention of the House next to a matter that my colleague on the committee [Mr. MCCORMICK] did not allude to, and that is in respect to the charge that Judge Boarman corruptly assumed jurisdiction in the case of a favorite relative. The case is that of *Elstner vs. The Heirs of Goldkin*. That case was simply this: Goldkin was murdered, and Elstner, who is the nephew by marriage of the judge, was employed by the curator to prosecute the assassin. But he was informed by the heirs of Goldkin that his services were not needed, inasmuch as there was a public prosecutor who had charge of the case. Nevertheless, he rendered service and the assassin was convicted.

Under the law of Louisiana the administrator, who in that State is called the curator, made a tableau of distribution of the assets in his hands, showing what disposition he proposed to make of them. He proposed to pay Mr. Elstner \$1,000 for his services out of the funds of the estate. This item was contested by the heirs at law, and was tried in the district court of Louisiana; and upon the proof of notice that his services were not needed, and upon the universally prevailing principle of law that an administrator or legal representative of an estate can fix no liability upon it by any assumpsit of his, the State court decided against the claim.

Soon thereafter, and before the curator had distributed the funds in his hands, Mr. Elstner began suit against the heirs, who were nonres-

idents, by attachment in the United States district court, over which Judge Boorman presides, and he had service of garnishment upon the curator, who still held the funds. The case came up for trial in court, the heirs at law and the estate being represented by counsel; a complete transcript of the proceedings in the State court was introduced, which showed that the questions in controversy were *res adjudicata*. The parties were substantially the same, the subject-matter was identical, and every lawyer knows that not only that which was actually adjudicated, but everything which could have been adjudicated in the proceedings was *res adjudicata*. Notwithstanding this fact, the judge instructed the jury to find for the plaintiff according to the proof on a *quantum meruit*.

The jury returned a verdict as to the value of the service, fixing it at \$800. The judge required the plaintiff to release \$200 of this amount, putting it at \$600. Counsel for defendant suggested the propriety of his vacating the bench, inasmuch as the plaintiff in the suit was his nephew by marriage and with whom he resided. He declined to do it on the ground that there was no positive statute which required him thus to recuse himself, and proceeded to try the case.

Mr. BOATNER. Will the gentleman yield to me for a moment?

Mr. OATES. Certainly.

Mr. BOATNER. I wish to call the attention of the gentleman from Alabama to the fact that in the trial of the cause the judge refused to permit counsel for the heirs to argue to the jury any question at all except as to the value of Mr. Elstner's services, holding that as to whether they were recoverable or not was a question of law which could only be addressed to himself, and that he would give them the right to address him on that question on a motion for a new trial.

Mr. OATES. The gentleman correctly quotes the evidence, for which I thank him. Had there been no relationship between the judge and the plaintiff such conduct, such a ruling of any court, is disgraceful and tyrannical, well deserving rebuke, but when coupled with circumstances strongly tending to show corrupt motives it suggests impeachment as the only adequate remedy.

I say, Mr. Speaker and gentlemen of this House, that if the motives of the judge had been pure, whether there was a statute or not, he would have vacated the bench and utterly declined to preside in a cause where his relative was the plaintiff and beneficiary. He treated with contempt the judgment of the State court which had settled the rights of the parties according to law and from which no appeal had been taken. For his conduct in that case I say that impeachment should be preferred.

Now, I do not intend to consume time to repeat any part of that which has been so well stated by my colleague, the gentleman from Pennsylvania [Mr. McCORMICK], touching the matter of Judge Boorman's tampering with the funds in the registry of the court. The proof is simply overwhelming that the judge used those funds for his own private purposes. The evidence we have is enough to satisfy me beyond a reasonable doubt, if I were on a jury trying him upon an indictment for the embezzlement of those funds; and yet I have reason to know and do know that there is additional evidence which can be obtained upon this point, which the committee did not get or incorporate in their report.

Now, in respect to his borrowing money from the marshals there seemed to be for a time some doubt in the minds of my colleagues as to the conclusiveness of the evidence upon this point. There was nothing political in it. One marshal was a Democrat and the other a Republican. Their evidence is precisely similar in every respect. They were poor men and had no means of their own to lend to the judge. They testified that they loaned him money in their hands that belonged to the United States. They attempted to shield themselves from the charge of violating the law in that respect by saying that the Government owed them about an equal amount of unadjusted and unaudited claims.

They each stated that the reason why they loaned it when they did not wish to do it was that they feared to incur his displeasure. They knew that he had the power either to increase or diminish the earnings of the office, and for that reason they unwillingly parted with Government funds in their hands by way of a loan to this judge. He knew them, he was familiar with their circumstances, he knew that they had no funds of their own that they could loan to him, and he is therefore in law chargeable with knowledge of the fact that the funds borrowed from them belonged to the Government of the United States. In addition they told him when they wished a return of the money that they wanted it because they had to settle with the Government. He knew that it was Government money; he violated the statutes in using it, and should be impeached on that ground.

Now, with reference to what are known as the Jones cases, to which my colleague on the committee has alluded. The Jones cases were two, a civil one for the recovery of the value of certain timber cut from Government land and the other an indictment for the trespass.

Mr. John R. Jones, a man of means and business prominence, entered a good large quantity of finely timbered pine lands which were of the alternate sections reserved within a land grant to a railroad, which was subject to entry only at \$2.50 per acre. Through a mistake of the local land officers they allowed Jones to enter at \$1.25 per acre.

When the same was returned to the General Land Office that office instructed the local officers to notify Jones that he could pay the additional \$1.25 per acre and thus perfect his entry, otherwise the same would be canceled. Jones refused to pay the additional price, and at once proceeded to denude the land of its timber, and also cut all of it from an abandoned homestead adjacent thereto. Sixteen thousand dollars' worth of timber, by the stumpage, was thus taken from lands of the United States.

In the mean time Jones made application for the return of the money he had paid for the land, his entry having been canceled. The Land Office required of him, as is the practice in all cases, the execution of a quitclaim deed, which he did, and received his money back from the Government. The United States district attorney, on learning all these facts, commenced suit against Jones for the value of the timber. He was also indicted by the grand jury for the trespass, and had he been convicted would have been subject to fine of three times the value of the timber taken. The Department employed special counsel to assist the district attorney. Upon the trial Judge Boorman, presiding judge, refused to hear the special counsel in argument, and held that the deed executed by Jones operated to estop the United States from proceeding against him. At the time of this most extraordinary ruling Judge Boorman was on very friendly terms with Jones and had often been accommodated by Jones's acceptance or indorsement of Judge Boorman's paper.

Mr. Speaker, I will now state the fifth and last point in the case.

Jonas & Farrar, attorneys, filed a bill in equity in the circuit court of the western district of Louisiana for a client of theirs, praying that a receiver of a certain little railroad in said district be appointed, etc. The bill was set for hearing by Judge Pardee, United States circuit judge for the fifth circuit. Subsequently Messrs. Leonard & Marks, attorneys, filed in said court a bill against the same railroad and for the appointment of a receiver at the suit of one of their clients. They had their bill set down for hearing before Judge Boorman, acting circuit judge, or district judge exercising circuit court powers, at an earlier date than the date fixed for the hearing before Judge Pardee.

Messrs. Jonas & Farrar wrote to Judge Boorman informing him of what had been done, and of the time appointed for hearing before the circuit judge, and protesting against Judge Boorman's taking jurisdiction or making any order in said cause; but, notwithstanding, Judge Boorman took jurisdiction, appointed a receiver, who employed as his attorneys Messrs. Leonard & Elstner, the judge's nephew. This was another instance of Judge Boorman's partiality to these gentlemen. It was more. It was utterly disrespectful to the circuit judge.

Standing alone, Judge Boorman's conduct in this case would not warrant an article of impeachment; but it shows such a want of discrimination and indelicacy as to evidence his unfitness for the high office he holds. Judge Pardee, the circuit judge, is a native of Ohio, was a Union soldier, and is a Republican in politics, but wherever he is known he is esteemed as an honest, able, and upright judge. Judge Boorman has many personal friends, but his conduct has unfortunately brought against him charges which to say the least have greatly impaired, if not destroyed, the confidence of the people in him as an impartial and upright judge.

Of all our high officials the judge of a court of justice should be the highest above the slightest suspicion of corruption. Mr. Speaker, I came to the conclusion regretfully but unavoidably from the testimony that Judge Boorman should be required to answer articles of impeachment at the bar of the Senate, and hence I shall vote for the adoption of the resolution.

Mr. THOMPSON. There are others who desire to be heard and I will ask to call up the case at the evening session.

JOHN C. PHILLIPS.

Mr. MASON. I ask unanimous consent for the present consideration of the following bill. It has been reported unanimously year after year by both Democratic and Republican Houses, and it is a case of great merit.

The Clerk read as follows:

A bill (H. R. 4842) for the relief of John C. Phillips.

Whereas, on the 3d day of September, A. D. 1861, General John C. Frémont, then in command of the Western Department, headquarters at St. Louis, Mo., appointed John C. Phillips colonel, with authority to organize and command the Sixteenth Regiment Missouri Volunteer Infantry; and

Whereas said John C. Phillips proceeded under said orders to recruit ten companies for said regiment in Minnesota, Iowa, Illinois, Wisconsin, and Missouri, and within thirty days had recruited the full complement of men, and advanced the necessary funds, aside from transportation, save in exceptional cases, to the amount of \$11,000, for a portion of which vouchers are still preserved and for a portion of which vouchers are lost, the same having been deposited with the quartermaster's department at St. Louis in 1862, and passed upon favorably by the disbursing officer of that department, but no portion of the same having been paid, and can not be paid by the Quartermaster's Department, under the act of June 3, 1873: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of \$11,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying said Phillips for the money advanced as aforesaid.

Mr. MASON. The report in this case is quite long, but it was prepared originally by the gentleman from Pennsylvania [Mr. MAISH].

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

Mr. OWENS, of Ohio. I demand the regular order.

Mr. OWENS, of Ohio, subsequently withdrew his demand for the regular order.

The SPEAKER. Is there other objection to the present consideration of the bill? [After a pause.] The Chair hears none.

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

Mr. MASON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. COLEMAN. Mr. Speaker, I rise to a parliamentary inquiry. I wish to know if during the session to-night the House will take up the Boardman case and act upon it.

The SPEAKER. The Chair can not answer that. That is hardly a parliamentary inquiry; but the matter will come up as unfinished business when business of that kind is in order.

Mr. COLEMAN. Not necessarily to-night.

The SPEAKER. Probably to-night.

Mr. GROSVENOR. I would like to have the attention of my colleague from Ohio [Mr. THOMPSON]. I want to know whether it is the purpose to take up that case to-night.

Mr. THOMPSON. It is.

Mr. GROSVENOR. I wish that case could be allowed to go over until Monday.

Mr. COLEMAN. Another inquiry: Would it require unanimous consent to take it up?

The SPEAKER. The Chair would rather pass upon that question when it comes up.

Mr. GROSVENOR. Will not the gentleman from Ohio [Mr. THOMPSON] consent to allow the case to go over until Monday? A night session is hardly the right time to consider a question of so much importance as this. I will say that there is no disposition to obstruct the case in any way.

Mr. McMILLIN. Mr. Speaker, I offer the following resolution—

Mr. GROSVENOR. Mr. Speaker, a question of order. Will the gentleman from Tennessee [Mr. McMILLIN] yield for a moment, just to allow me to call the attention of the Chair to an arrangement made with the committee in charge of this impeachment case?

Mr. McMILLIN. I have no objection to that.

Mr. GROSVENOR. I understand my colleague from Ohio to consent that he will not call up the impeachment case until Monday, with the understanding, of course, that there is to be no obstruction to the proper course of it.

Mr. THOMPSON. I do not know what business will be before the House on Monday. I am willing that it should go over to that time if it can be considered then.

The SPEAKER. It will have to be subject to the business of the House on Monday. We are too near the end of the session for any agreement that does not include that idea.

Mr. HOUK. Mr. Speaker, it seems to me that this ought to go over until Monday. I want at least long enough time to enter my protest against a summary proceeding like this, involving the character of our judicial officers.

The SPEAKER. The Chair suggests that the matter can be made the subject of arrangement between gentlemen after the session has closed, because it is not necessary that it should be called up unless the gentleman from Ohio [Mr. THOMPSON] sees fit.

Mr. HOUK. I do not think there is anything in the history of England or America which is a precedent for such summary proceedings.

Mr. COLEMAN. It may be difficult to make a satisfactory arrangement.

Mr. THOMPSON. I do not want it understood that any arrangement has been entered into in the presence of the House. It may become the subject of private arrangement, as suggested by the Speaker.

ENROLLED BILLS SIGNED.

The SPEAKER. The Chair will lay before the House a report of the Committee on Enrolled Bills, and without objection the titles will be printed in the RECORD without being read.

There was no objection.

Mr. KENNEDY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 3061) for the relief of David H. Russell;

A bill (H. R. 3902) to amend an act entitled "An act for the relief of certain volunteer and regular soldiers of the late war and the war with Mexico," approved March 2, 1889;

A bill (H. R. 4187) for the correction of the Army record of Capt. William P. Hall, United States Army;

A bill (H. R. 4224) to remove the charge of desertion against James Littleton;

A bill (H. R. 4781) for the relief of William H. Keys;

A bill (H. R. 5067) for the relief of Archibald Hunley;

A bill (H. R. 5587) for the relief of James A. Rice;

A bill (H. R. 6340) for the relief of John Zedeker;

A bill (H. R. 7342) relating to junk-dealers, dealers in second-hand personal property, and pawnbrokers in the District of Columbia;

A bill (H. R. 7938) authorizing sale of title of United States in lot 3, in square south of square 990;

A bill (H. R. 8469) for the relief of Hart County, Kentucky;

A bill (H. R. 9212) to relieve John J. Murphy from the charge of desertion;

A bill (H. R. 9955) dedicating part of lots 14 and 15, in square 812, as a public alley;

A bill (H. R. 10500) authorizing the commissioners to grant to the Veteran Volunteer Firemen's Association use of certain property in the city of Washington;

A bill (H. R. 11560) to relieve Patrick J. Bench, alias Patrick Mc-Bench, from the charge of desertion;

A bill (H. R. 12839) to authorize the Rapides Bridge Company (limited) to construct and maintain a bridge across Red River, at or near Alexandria, La.;

A bill (H. R. 13580) in amendment to the various acts relative to immigration and importation of aliens under contract or agreement to perform labor; and

A bill (S. 172) to credit and pay to the several States and Territories and the District of Columbia, all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861.

R. F. HARRISON.

Mr. DICKERSON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 2211) for the relief of R. F. Harrison.

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 R. F. Harrison, of Carrollton, Ky., out of any money in the Treasury not otherwise appropriated, the sum of \$1,128.70, to reimburse him for expenses and liabilities incurred on account of his son, Theodore L. Harrison, who died while commercial agent of the United States at Baracoa, Cuba.

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

Mr. KERR, of Iowa. I would like a statement of the case.

Mr. McCREARY. The bill is unanimously reported by the Committee on Foreign Affairs.

Mr. DICKERSON. It is to pay the funeral expenses of his son.

Mr. KERR, of Iowa. How much money is involved?

Mr. DICKERSON. About \$1,200.

Mr. McCREARY. It is only to defray the expenses of bearing his remains to Kentucky.

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

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

The latter motion was agreed to.

The SPEAKER. The House will now be in order.

DEATH OF HON. JAMES PHELAN.

Mr. McMILLIN. Mr. Speaker, I ask for the reading of the resolutions which I send to the desk.

The Clerk read as follows:

Resolved, That the business of the House be now suspended that opportunity may be given for tributes to the memory of Hon. James Phelan, late a Representative from the State of Tennessee.

Resolved, That, as a particular mark of respect to the memory of the deceased and in recognition of his eminent abilities as a faithful public servant, the House, at the conclusion of these memorial proceedings, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk also transmit to the family of the deceased a copy of these resolutions.

[Mr. RICHARDSON addressed the House. See Appendix.]

Mr. O'NEILL, of Pennsylvania. James Phelan, born December 7, 1856, died in Nassau on the 30th of January, 1891, having lived but a little over thirty-four years. When he was but ten years of age, his father, a distinguished citizen of Mississippi, removed with his family to Memphis, Tenn. This son, in the prime of his young manhood, not having reached his thirtieth year, was honored by a triumphant election to the United States House of Representatives and two years later was re-elected by a largely increased majority. The re-election showed that confidence of his constituents in him which is so much desired by Representatives, it being considered always an indorsement of official conduct.

These details I give to illustrate the sentiment of the country, that youth, with its energy and ambition, is fitted for the commencement of legislative work, usefulness to constituents and distinction to the Representative surely coming as years of service make manifest his industrious and intelligent devotion to duty.

Mr. Phelan, owing to failing health, did not seek a third renomination and election. By examining the rolls of Congress, it will be found that, as a general rule, a larger proportion of those who come to the House of Representatives at or about the age of thirty years, than of

those who come at a later age, gain reputation and are promoted to higher national positions.

In my Congressional experience I could name many who at that early period of life laid the foundation of leadership, controlled legislation because of their ability, and in the future were recognized as the statesmen of the country. Senators and Presidents can date their elevation to these high places from the impression made by them during their days of comparatively early service in the House. Mr. Phelan, with his unusually thorough education, his natural mental power, his intellectual training, and unremitting devotion to his duties, would have become distinguished here and have been known by his countrymen as successful in his Congressional career.

Higher honors from his State would have been within his reach; but, unfortunately for him and for us, his health broke down, and death claimed him much too early for those of us who knew him and appreciated and admired his great attainments. He was my fellow-member in the Committee on Commerce in the Fiftieth Congress. His attendance at its meetings was constant, and in all matters considered by it his practical knowledge and his varied information gave him a standing therein most enviable. His assignment to that committee for the present Congress was in accordance with the wishes of all its members, and had his health permitted him to take his usually active part in its deliberations, he would have continued among the foremost in perfecting the important measures referred to it.

His absence, so frequently necessary, was felt severely at its meetings during both sessions of this Congress, depriving his colleagues of his courteous companionship; and his death was most sincerely deplored. Fighting for life so many months, seeking bodily relief far from the constituents who loved and respected him, dying in a foreign land, so young, and with a future so full of promise, his death is attended with incidents of sadness not often realized by us. I received, the day after his body had reached Washington, a most feeling and sympathetic letter written to me by an esteemed friend of mine, a very prominent citizen in social and business life in Philadelphia, whose wife is a kinswoman of the deceased, in reading which my heart was touched, so full was it of affection and grief.

In replying to this letter I promised to keep these sorrowing relatives informed of the time fixed for the final burial, so that with others of the family they might mingle their tears as the body of the departed was consigned to its last resting-place on earth. So that in Philadelphia there is deep affliction at the death of James Phelan, and his untimely loss is lamented and his memory tenderly cherished by these friends in that city who have known and loved him long and well.

Mr. CUMMINGS. Mr. Speaker, it is just possible that in speaking of the dead we do not pay sufficient heed to endeavor. Inertia is the bane, as action is the glory, of existence. One is heedless, the other requires design. And as motive measures the guilt of a bad action, so does purpose add to the merit of a good one. A man who strives for the right and fails is entitled to more credit than one to whom success comes without effort. But the greater glory is accomplishment, which comes from both design and labor. When Demosthenes, to the question three times repeated as to what was most essential in oratory replied, "Action, action, action," he could not have meant that action alone constituted the whole of eloquence; for gesticulation and gyration are methods with which the harlequin often excites mirth in his auditors. He must have meant that action was the most efficient method of enforcing the words of the orator, and was therefore essential to a finished performance.

This much I have deemed a proper introduction to what I have to say of our dead friend. He was full of endeavor and he also accomplished. Young as he was he has, in my opinion, won a conspicuous and permanent place in American literature. My acquaintance with him was brief, but exceedingly cordial. We were brothers in the field of journalism and entered the Congressional arena together.

What first impressed me was his intense Americanism. He loved his country as a son his mother. He sought the sources of her strength and glory as the hart seeks for running waters. He studied the origin of her institutions, and his desire was that she should be first among nations in all that was excellent. A stain upon her he felt as a blot upon his own honor. Confident that this would be manifest in whatever he put upon record designed to be lasting and surprised that it should show itself so intensely in one born to affluence and educated abroad, I sought the source of it in his history of his own State. There I found it.

I pronounce it a great work, not great perhaps in its scope, but a finished performance of what he attempted. In my judgment it more than rivals any similar work that America has produced. Put to the trial, I believe it would hold its own and make a head-to-head finish with the best that has been done in philosophical and biographical history. Its style is simplicity itself. In presentation it is wonderfully vivid. In delineation every fiber is distinct. His story as he runs it off leaves no room for misconception. Every event is finished in its proper place. Every character is put in its proper position. When he completes the concurrence that brought them together, there is no catching back at it. It is done. His philosophy in regard to events and

his limning of character are done in such a flood of light that the reader feels himself in their very presence, with a perfect appreciation of their entire significance.

Nor is his criticism of other writers less graphic or less just. Of this I will give but a single example. Speaking of Jackson, that heroic figure in American history, he says:

Parton has all but ruined Jackson's reputation among the thoughtful. Sumner sinks him to the level of a "guerrilla chief or a cross-roads politician."

Here is a volume of criticism in three lines.

It is often said that a good history can not be written by a contemporary. James Phelan has done more to negative this statement than any author I have ever read. Nothing could better show the magnanimity of his mind, and magnanimity is the sum of all great qualities. He may almost be said to have written in the very presence of that which he records, and yet we look in vain for any bias in the writer.

The achievements of rugged pioneers and the vigorous growth of the institutions which they founded seem to have woven themselves into his very being, so that his love of them was like the love of life itself. And this he published to the world in almost every act and speech of his life.

James Phelan was an example of the highest type of American citizenship—a patriot and the son of a patriot, a scholar and the son of a scholar, and yet above all and through all a man of the people.

Educated abroad, no foreign education could make a foreigner of him. To know the caste and fashion of Europe only made his patriotic heart love more the simple manners of his native land. To see the pomp and dignity of monarchy only confined him more closely to the paths of liberty and equality. Beneath the glitter and the show, the tinsel and the flash of royal state, he saw the poverty and oppression, the misery and suffering it breeds. The sight of the magnificent armies of Europe only impressed upon his thoughtful mind more deeply the great truth that large standing armies are a menace to free institutions. His foreign education, his knowledge of European life and manners, only intensified his love for the institutions of his country and his devotion to her welfare.

Mr. Phelan was not only an illustration of American patriotism, but equally of the versatility which distinguishes our countrymen. Educated for the law, he turned to the more congenial pursuits of journalism and statesmanship. His short career in Congress is closed. Here, as everywhere else, he was a close and continuous student. Whatever he attempted, in that he excelled. He stood in the front ranks of journalism, of literature, of statesmanship.

His private character was without reproach; his public services beyond the cavi of envy or the slander of partisan spirit. Amid all the siren voices that steal upon the ear of the statesman, he heard naught but the still small voice of duty. With him to hear was to obey.

An editorial confrère, touched to the heart by his death, has poured forth a tribute to his memory, already quoted by the gentleman from Tennessee [Mr. RICHARDSON]. I can not refrain from quoting these golden words:

He never disappointed a friend; he never ignored an obligation; he never forfeited a confidence. His will was invincible; his motives pure. His purposes were definite, but exemplary and lofty. His self-respect was intense; therefore he strove for justice to others. He sought no mean advantage, being jealous of his own honor.

In him the living have lost a kind husband, a tender father, a faithful friend; his State, a true son; his country, a faithful servant. But he has left them that richest of all treasures, a spotless reputation, the memory of earnest deeds well done.

Thus much have I felt impelled to say of James Phelan. I feel exalted that I knew him; I revere his memory; I rejoice that he was my countryman.

Mr. GROSVENOR. Mr. Speaker, my acquaintance with the Hon. James Phelan was simply the acquaintance that a member of this House on this side of the floor has with a member on the other side with whom he does not come in contact in the committee room or the nearer associations of home. To my mind he has been fitly described by the eloquent gentleman from New York [Mr. CUMMINGS]. With him pride and ambition as a writer and journalist was, in my judgment, above every other consideration; and when I first made his acquaintance he made the impression upon me that he was also a man of fine social instincts and of tenacious attachment to the opinions he had formed.

Later I discovered that he had just enough pride of opinion to make him jealous of criticism he deemed to be unjust; but I realized that he was always fair and just to his opponents. He did not make speeches on the floor of the House to such an extent as to bring him under my notice in that particular. I looked upon him as an industrious, working member. He seemed, Mr. Speaker, to know that death was upon him; for when I first met him he seemed to be a man who felt that against his life an uncontrollable, irresistible enemy had prepared a fatal and final attack.

The great wonder to me is (and I have noticed it in the case of other men besides Mr. Phelan) that an intelligent man, with a full knowledge of his own condition, sensible that death was close upon

him, that his life here was to be limited to a few months, and that he was struggling against overwhelming odds, should yet go straight forward in the discharge of his public and private duties as though before him lay long life and the culmination and fruition of a laudable ambition. I think that, perhaps, it is one of the wisest provisions of Providence that this should be so.

It is not so in every man, and where it presents itself it is an indication of high courage and strong mental power that can bear up against all the encroachments of disease and refuse to surrender the ambition to achieve something more, something greater, something higher. I testify to the character of Mr. Phelan, from the standpoint which I have indicated, as a man of stern devotion to duty. I differed with him upon a great many questions. I looked upon him as one whom I might class as an extreme man upon some questions that come up here; I formed that judgment more from his writings than from his oral declarations; but I looked upon him as a man who was wholly conscientious, a man who believed what he said. And, Mr. Speaker, that is an element of character that I admire, no matter though the possessor of it and I may differ very widely. The older I grow and the more I see of men and things, the more lenient I am toward the opinions of others, the more ready to doubt my own correctness against the judgment and testimony of men who differ with me.

Mr. Speaker, death has made havoc of the Fifty-first House of the American Congress.

What an appalling list! I recall them one by one. The indomitable, energetic, clear-headed Burnes who fell in a moment and was wafted away. Townshend, the mercurial, strong, quick, active partisan, gentleman, friend. Then Gay, full of years and experience, conservatism, wisdom, value upon this floor. Pennsylvania has suffered. The oldest member of the House in point of service, Judge Kelley, died during this Congress, a man of vast resources of mind, of splendid application to the pursuit of the ambition of his life; and Randall, the man of grandeur of character, sturdy integrity, wisdom, power; and Watson whom we eulogized but a few days ago.

Then Cox, of New York, than whom no more lovable man ever stood upon this floor, a man who could turn the storm of contest here into the gentle breeze of pleasant rivalry, the readiest man upon his feet I ever saw. Then Wilber, and the brave, gallant Nutting. Next, Walker, of Missouri; and finally our friend to whom we are here to do honor to-day. What a galaxy of talent, of honor, of statesmanship, of virtue; and they have all gone before us.

Mr. Speaker, on another occasion like this I said that, judging by my own feelings, by life inspirations that came to me, I would not believe that there was no future; I would not believe, I would not be driven to the belief, that there was not somewhere a place where we shall meet again, and surely I can not believe in the justice and the goodness of a being that would annihilate the twelve whose names I have recited. They would not have been created for annihilation. It is a libel upon the common judgment of mankind, and I believe that their example, their efforts, their character, are beckoning us onward to a home that we may not attain to, but that we may attain to, where partings like these will be no more.

Mr. DUNNELL. Mr. Speaker, these ceremonies are in honor of the late Hon. James Phelan, of the State of Tennessee. This associate died too early for his home, his State, and the nation. Death came to him at Nassau, on the 30th day of January of the present year, whither he had gone in a search for health. This great boon fled his search, and the remorselessness of the great enemy of the race held its victim. It would not yield. The cultured mind, the gentle spirit, the loyal heart could not withstand its demands.

I have ever thought that words of eulogy, such as this occasion requires, should be pronounced by those who best knew the subject, who knew his parentage, his early life, his struggles, and triumphs in the early and later periods of life, the characteristics of the man, his mental powers, his moral and social qualities.

I did not have the honor to know our lamented brother. An incident alone apparently justifies me to cherish a hope that I may in some, yet few words, fittingly mention a reason for my part in these commemorative services.

In 1875, a daughter but recently married, with her young husband, a prospective student in one of the universities, reached Leipsic, Saxony. They soon formed the acquaintance of James Phelan, of Tennessee, then a young man of twenty and a fellow-student in the university. This acquaintance ripened into a friendship at once strong and delicate. These happy social relations which existed between these three young Americans in a foreign city were suddenly ended in the second month of the next year, when the young wife became a victim to the same fell disease which fifteen years later overtook, at Nassau, the ripe scholar and the distinguished statesman whose death we here to-day so profoundly mourn.

The first written messages which gave to us the circumstances of the death and burial of the daughter and young wife told us how tenderly and how lovingly the young fellow-student had conducted himself on the sad occasion. As the young man dropped his tears of sorrow and respect upon that grave, made in a land far from home, so here the

father would mingle his tears with the tears of those who to-day weep at the grave of a husband and father.

James Phelan wrought grandly and died ere the meridian of life was reached, honored and loved by all who knew him. All these knew the nobleness of his nature, his bright intellectual powers, and, most of all, his warm, generous, loving heart.

Mr. BAKER. It has often been said, Mr. Speaker, that death loves a shining mark, and such a mark he had in him we commemorate to-day. In James Phelan, with whom I became acquainted during the last Congress, I discovered a gentleman of rare merit and of most brilliant promise. I did not come to know him until we were thrown together as members of the Committee on Commerce, to which, by the courtesy of the Speaker, I was assigned as chairman at the commencement of the present Congress. Then, in the few interviews that we had as members of that committee, I recognized in Mr. Phelan a gentleman of marked ability, a man who commended himself to me as one filled with an earnest desire to serve well his day and generation.

Honest, earnest, intelligent, able, cultured, he was also ambitious to do his full share of work as a member of the committee, and he attended upon several occasions when I felt that he was really unable to be out of his bed. Unable as he was to attend to the duties of that committee for more than a brief period, he performed those duties admirably while he did attend, and in the interviews that we had from time to time I found that he felt a profound interest in the many affairs connected with the public welfare which came before us for consideration.

He took a very deep interest in the commercial growth of the country and in the advancement of all the interests that combine to make our people and our country great and prosperous, and his desire was plainly manifest to do anything and everything in his power as a statesman to secure the greatest possible good to every portion of our common country. I discovered also in my intercourse with Mr. Phelan that he was a man of warm impulses and of a gentle, confiding nature. A warm friendship readily sprang up between us, and, when he bade me good by with the remark that he hardly expected ever to meet me again, I felt, Mr. Speaker, that I had lost a friend, that the House of Representatives had lost an intelligent and able member, and that but a few short weeks, or at most months, would elapse until the world would be deprived of a man of unusual promise and remarkably endowed with those graces of mind and heart which we all so highly prize in our fellow-men.

Mr. Speaker, it is fit that we should meet on this occasion to pay tribute to the memory of a man like Mr. Phelan. Our relations here are of such a character that when one of our colleagues lays down his life and passes to the unknown world we readily forget all that may have occurred to excite antagonism in the fierce struggles of political life. But in a case like that of the friend we now mourn we know that we have been called upon to part with a man eminently worthy of our respect and confidence, and we feel that the loss is irreparable. I sadly pay tribute to his memory as a friend and colleague. I extend to those whom he left behind a heartfelt sympathy, as I know that every one of his colleagues upon this floor has done and will do.

I often feel that in the loss of such a man the poet would hardly be justified in saying that—

Our lives are like the shadows
On sunny hills that lie,
Or grasses in the meadows
That blossom but to die.
A sleep, a dream, a story
By strangers quickly told—
An unremaining glory
Of things that soon are old.

The influence that we exert by our lives and our deeds lives after us and life is something more than a mere shadow. James Phelan will continue to live in the influence which will be felt for all time upon his people and upon the world; and those who bear his name may well feel a pride and a glory in the example which he set, in the life he led, in the noble work of his brief years.

Mr. CARUTH. As the Fifty-first Congress draws to its mournful close it may be well to follow the distinguished gentleman from Ohio [Mr. GROSVENOR] in his retrospective glance at the mortality which has followed its career. Mr. Speaker, scarcely had the gavel on yonder desk marked the death of the Fiftieth and the birth of the Fifty-first Congress when the scythe of death commenced its havoc in our ranks. Scarcely had we reached our homes after the adjournment of the Fiftieth Congress when the news was borne to us on the wing of the lightning that Richard W. Townshend, of Illinois, honored by his people and his State, respected and beloved by his colleagues on this floor, had closed forever his earthly account.

During the months that intervened before the members of the Fifty-first Congress were to enter on the active discharge of the duties of their high office we were told that that genial gentleman, the wit, the scholar, and the orator whom all men knew and loved—Samuel Sullivan Cox—had been called from labor to repose. And when the members of this body gathered around that desk for the purpose of assuming the obligations of office there was missed from this presence one who had so

long and so faithfully discharged his duty of Representative on this floor one who had led his party, one who had presided over the deliberations of this body with justice and impartiality, one who had earned a fame extending beyond the bounds of the Union, a fame co-extensive with the civilized world.

While he was stretched upon a bed of sick nessand, as it has proved, his deathbed, the oath of office was administered to him. We looked at his vacant desk; we thought that no more would his presence be seen in this Chamber and no more would his voice be heard on this floor. But, ere the messenger of death came to Samuel J. Randall, "The father of the House," his colleague, who had served longer than any other member of Congress—faithful and devoted to the interests of the people as he understood them—William D. Kelley, was stricken down by the remorseless hand of death. One after another fell until, as we have been told by the gentleman from Ohio, there had been twelve deaths in this body. Last of all came he to whose memory we desire to pay tribute this day, James Phelan, of Tennessee.

Mr. Speaker, I entered Congress at the same time that he commenced his career here; and I was drawn to him not merely because of the fact that he was a Representative from a neighboring State and had been partially educated in the State of which I have the honor to be a Representative, but because I had been told he was the youngest man accredited by the people to represent them in the Federal Congress. I expected that when I came to know him I would see in him some of those traits that characterize youth more than manhood.

But I found him as steadfast in purpose, as studious in habit, as grave and sedate in manner as if his brow had been marked by the finger of time and his hair had been whitened by the frosts of age. So well and so faithfully did he serve his people that they returned him as a member of the present House of Representatives. But, although hope might have pictured to his mind a future of still greater honor and distinction, death came. Scarcely had his sun reached its meridian height before it was eclipsed in the darkness of the tomb.

He had everything to make life desirable: a loving wife, children to cluster about his knees and to encircle themselves around his heart. With a mind educated far beyond that of many who had attained the greatest distinction, the prospect spread out to him was that of a long and useful life. But death cast its envious glance upon him and sent, to make slow and insidious progress in his vitals, that dread disease, consumption. And in a foreign land, far from the flag that he loved so well, his body was returned to dust, and the spirit to God from whom it came.

He lived a noble life. He did, so far as time afforded him opportunity, all that man could do, and left as a heritage to his children, as a cherished memory to his wife, a spotless reputation and an honored name. But he left besides that something that should be an example to all aspiring minds. He showed what could be done by energetic and faithful work and, as the gentleman from New York has so eloquently said, by earnest endeavor. He demonstrated to the ambitious and aspiring youth of this country that—

The heights by great men reached and kept
Were not attained by sudden flight,
But they, while their companions slept,
Were toiling upward in the night.

Mr. EVANS. Mr. Speaker, it was not my pleasure to have the honor of an intimate acquaintance with the deceased, Hon. James Phelan, who represented the Tenth district of Tennessee in this House for the Fiftieth and Fifty-first Congresses, but of him and about him I have known much. His home, though within the same State, was over 300 miles from mine, but his reputation was not confined to State lines or limits. He was a student and thoroughly familiarized himself upon all questions, an indefatigable, untiring worker, an easy, graceful, and forcible writer, and a historian who had collected facts, figures, data, and events connected with the formation of the State government of his adopted State and published a history of Tennessee.

On the Sabbath preceding the opening of the first session of this Congress, in December, 1889, he sent me a message and I called upon him at his residence in this city. It seemed to me then that his health was so impaired that his life must be limited to a few short months. During our conversation at that time I cautioned him that I feared the effort was taxing his strength too much; he had risen from a sickbed and hastily dressed to meet me, and sat in front of the open fire, but he assured me the fatigue incident to the journey here and the taking of a severe cold *en route* had temporarily, as he thought, drawn upon his strength.

He appeared upon the floor of this House upon the opening of the session, but the demands upon his strength were too much, and he was soon compelled to retire and seek additional strength and health, and finally was called to his long home while temporarily absent in a foreign land.

James Phelan was known as a manly man among men, a leader in thought and in expression; his quiet, gentle manners and earnest, honest ways won him friends with all he met. He was a gentleman of the highest type. He was loved and honored most among those who knew him best.

In the death of James Phelan Tennessee has lost a most valued citizen, and this nation mourns her loss.

Mr. STOCKBRIDGE. Mr. Speaker, once more do we pause in the performance of our legislative duties in this body to pay the last tribute of respect to the worth of a departed member of this House. Once more the Fifty-first Congress mourns the death of one who entered with us upon its labors. Once more is he to whose memory we bring this flower of tribute one of the young men of this House.

James Phelan realized in his life and in his acts the ideal of American manhood. Highly educated, with breadth of view, but endowed with that faculty greater than all, a broad humanity, in his veins the blood leaped quicker when he felt that by some act or word of his the sufferings of his fellow-men might be palliated or relieved.

Those who served with him in the last Congress bear eloquent tribute to the steadfastness with which he ever stood ready to lend a helping hand, ay, to lead the way in that which should tend in the highest sense to the benefit of man.

The age in which we live, Mr. Speaker, is called variously one of steam and one of electricity. This designation typifies that in this day, as in no past period of the world's history, there is a crush, a pressure, and a struggle, a resistless battle going on in which he who would stand in the foremost rank can reach that point, not by grappling upon the skirts of happy chance, but only by individual strength of character, by indomitable will, by dauntless courage, by determination of purpose.

Such it was which early in life made James Phelan known not merely in a narrow circle of home, but in the wider circle of associates in his State as a man whose views were of a breadth that others should give heed to and giving heed could pattern after and follow.

Hence it was that at an early age he entered this Hall, a Representative of the people, to bear here that same standard which in other fields he had so courageously maintained. Here, too, he typified the vital principle of the age, that resistless spirit of perseverance; and close, accurate work, coupled with profound research, characterized his labors as a member of this body.

The human frame is not like a piece of machinery. It has limitations upon its capacity for work, upon its powers of endurance; and James Phelan fell a martyr to his inability to measure his own strength. Had his physical strength been equal to that of his purpose and will he would stand to-day on this floor sharing with us the labors of these the closing hours of the Fifty-first Congress.

I do not propose, Mr. Speaker, to enter into any lengthy eulogy. I simply desire to call attention to the fact that those characteristics which were strong in him, and brought him early in life to this Hall, which made him respected and revered, honored by his associates, ultimately carried him away.

But, Mr. Speaker, while we contemplate these elements in the character of James Phelan, we can but feel that in them there is a lesson to be appropriated by each one of us; a lesson to be appropriated by the young men of this country; a lesson that it is by such lives as his, by the same courage, the same steadiness of purpose, the same untarnished reputation, the same devotion to the interest of humanity and the interests of the nation that this country must continue its prosperous course. Without it the future of our nation would indeed be dark. It is when such men as James Phelan come forth as the representatives of the people, when such men come to the front, they typify the underlying spirit which is not only to make our nation prosperous and blessed, but to perpetuate it in the days to come.

[Mr. McADOO addressed the House. See Appendix.]

Mr. WASHINGTON. Mr. Speaker, on the 30th of January, 1891, under the beautiful tropical skies, surrounded by the sweet flowers of the perpetual spring of the Bahamas, the Hon. James Phelan died, at Nassau, New Providence.

His father was the Hon. James Phelan, a distinguished member of the Confederate senate from Mississippi, a State celebrated for the long roster of its brilliant public men. After the close of the war he removed to Memphis, Tenn., where he was an eminent member of the bar until his death in 1873.

James Phelan, to whose memory we pay a mournful tribute to-day, was born at Aberdeen, Miss., December 7, 1856. He had barely entered his thirty-fifth year when death cut short his promising career.

His father was of Irish extraction and his mother of Scottish descent. This Scotch-Irish combination accounts no doubt for that persistency of purpose, that tenacity of opinion, which, united with a genial social disposition, so strongly marked his character. He was proud of his Irish blood and was ever ready to uphold the cause and defend the people of the Emerald Isle.

His earliest school training away from home was received at the Kentucky Military Institute, at Frankfort. In 1874 he went to Germany and there finished his education at the University of Leipsic, where he took the degree of doctor of philosophy, in February, 1878, ranking among the foremost students of his time. Unlike so many young men, he returned from the German university unspoiled by his foreign education and long sojourn and was still a plain, ambitious, patriotic American.

His philosophical and historical researches and comparisons taught him the true value of American free institutions. He saw that here

in this asylum for the oppressed of every land was to be worked out the latest and best solution of self-government untrammelled by the claims of aristocratic and hereditary rule. A thorough believer in the inalienable rights of the people, a born Democrat, the more he learned of monarchical governments the more intensely American he became.

After his return from Europe he studied law in Memphis, where he made his home and, being admitted to the bar in due course of time, began the practice of his profession. Pursuing the law with all the ardor and energy of his nature, he yet found much time to devote to literary and political work.

He took an active part in local politics at Memphis, and meanwhile, his speeches and writings on national affairs attracting much attention, he was urged by his friends in 1881 to become a candidate for Congress. He declined, and wisely bided his time.

Two years later, in 1886, considering that his hour had come, he declared himself a candidate. He made a hot, exciting canvass against heavy odds and under adverse circumstances, which attracted attention over the entire State. His progress was steady. In the end he swept away all obstacles, rallied the representatives of all classes to his support, especially the young Democracy, and was triumphantly nominated. His opponent, Hon. Zachary Taylor, was an able, brilliant young Republican, seeking a re-election, but Phelan's majority was almost unprecedented for that district. So faithfully and efficiently did he serve his constituents in the Fiftieth Congress that he was re-nominated without opposition and elected to this Congress by a largely increased majority.

His election was contested by his opponent, L. B. Eaton. The case is still pending before the Elections Committee of this House, but, so far as our beloved colleague is concerned, the finding of that committee can make no difference now. He has gone to that realm of eternal light, where partisanship is unknown, where all the prejudice, passion, and intrigue of party politics, where all the subterfuges and thin disguises of the demagogue become as clear as the light of day at noon-tide.

I can not more tersely and aptly describe what James Phelan did in politics and literature than to quote the words of his most intimate friend, Col. H. M. Doak:

In politics Phelan has done just enough to show genius for politics. In Congress he served just long enough to show that he would have made a great and valuable statesman. He has left his political career a wonderful broken column; but it is all pure Parian as far as it goes towards the stars. In his history he has left an enduring fabric for Tennessee to cherish.

Well do I recall his face and form as he sat in the last row of chairs on this (the Democratic) side of this Hall in the Fiftieth Congress, bending over his desk all day; writing with a ceaseless energy; writing all the time, letters, articles for publication, editorials for his paper in Memphis, and at the same time following and taking part in all the proceedings of the House. I never knew a man who worked harder or faster. He worked as if he felt that his time was short; that his days were already numbered, and that the tasks which he had set for his hand to accomplish must be finished ere the coming of the fatal hour.

One of the first objects of legislation which he determined to accomplish was the passage of a bill guarantying to Memphis a great bridge across the Mississippi River. Every Memphian who goes out near the beautiful customhouse, on that bluff overhanging the mighty stream which sweeps so majestically onward to the Gulf, and gazes down the river on that magnificent bridge which joins with bands of steel Tennessee to Arkansas—the great West and the growing South—should feel that he looks on a monument to James Phelan's industry, better than marble, more enduring than sounding brass.

I know with what assiduity he applied himself to the intricate and involved questions affecting interstate commerce, a subject he had resolved, as a member of the Commerce Committee, to master. He did not speak much or often in the House; yet few measures passed which he had not scrutinized.

During these two years of the Fiftieth Congress, working night and day—politics, his newspaper, his school history of Tennessee taking all of his time save what he gave to the delight of his friends in social converse—he was literally burning the candle at both ends, and when the Fifty-first Congress assembled he was hardly able to be in his seat. He came to the House but a few times until he was forced to the retirement of his home, there to begin alone the hand to hand battle with grim death. No man ever made a more determined, a more cheerful fight for life. It was heroic. But to his friends who called it seemed from the start that the death mark was on his brow.

Soon after reaching his majority he married Miss Mary Early, of Lynchburgh, Va. In his home life he was the model of a perfect husband and father. His wife and three little children were with him during the last months of his life in the Bahamas. In their terrible bereavement they have the deepest sympathy of all who knew him.

His remains were sent here from Nassau, and on the 8th of February we carried his inanimate body to Oak Hill Cemetery, in Georgetown. There, in the receiving vault under the ivy-grown mortuary chapel, we left him. The pale winter sun came slanting through the naked boughs. The biting winds whispered among the ghostly tombs. The dying day seemed typical of our dead comrade, whose light of life

had gone flickering out, chilled by the great conqueror, Death, before it had even borne the flowers of that fruit of which it gave such glorious promise.

Mr. Speaker, I will append to my remarks for publication some editorial extracts from the Tennessee papers, which will show how James Phelan was esteemed by his constituents, by his brethren of the press, and by the people of his State.

The following editorial is from the paper formerly owned by Mr. Phelan, the Memphis Appeal-Avalanche, of Sunday, February 8, 1891:

JAMES PHELAN.

A star has fallen from our firmament. James Phelan is dead. The solemn word comes from the Bahama Isles. Thither had he gone in the hope that the salt and temperate air of the tropic ocean would give him health. The journey, the isolation, were in vain. His inanimate body returns. The spirit is unengaged. He whom we loved and honored has passed away. We have only to pay such tribute as affection may prompt. We shall remember him. A great man once, in his youth, carved his name high upon a cliff that less eager and brave men thought inaccessible. The years of Phelan's life were few, but he wrought wondrously. His name is written where it will endure. He has left as a heritage to his children a record of extraordinary achievement, because he was our neighbor we should not be insensible of the real greatness of the man.

With the single exception of Alexander Hamilton no man has ever appeared in the political life of America who at thirty had accomplished so much or gave such promise of a surpassing career. In youth a most assiduous student, he completed his education at the German universities. Other men have taken the same course only to become impracticables in the every-day affairs of the world. Not so with Phelan. He came home full-armed, ready, alert, ambitious and determined to make name and fame for himself as an American citizen. He projected his line of life carefully. He seemed to anticipate his own future. He proceeded patiently, but rapidly. Every obstacle in the definite course he had marked out was overcome. At thirty, what had he done? He was a member of Congress. He had proved himself a thorough journalist, owning and directing one of the leading newspapers of the South. He had written a history of Tennessee, which is so scholarly in its text, so acceptable in its treatment, and so exceptional in its worth as to establish him in high rank among those whose names adorn American literature. Where is his like for industry, for versatility, and for that quality of genius which comprehends any task and fulfills any obligation?

It may be asked if Phelan was a brilliant man. For answer turn the diamond of his character and note if from any facet the light does not glow. No youth more brilliant has this land known. A scholar to whom the classics were familiar, a politician who keenly apprehended the popular desire, a journalist who had the rare gift of precision which enabled him to know what his readers would want to know, a student who found no labor too arduous if conclusions might be reached, a man of opinions grounded in a philosophy that compelled respect, a leader among his fellows by virtue of his common sense and his intuitive perception of right policies, James Phelan, born to command, commanded. His will was invincible, but his motives were pure. His purposes were definite, but they were exemplary and lofty. His self-respect was intense; therefore he strove to do justice to others. He was ready to forgive a wrong when it proceeded from an honest difference of view. He sought no mean advantage, being jealous of his own honor. Sincere himself, he demanded sincerity of others. He never disappointed a friend; he never ignored an obligation; he never forfeited a confidence. Being true to himself, it followed, "as the night the day, he could not be false to any man."

But who knew Phelan best? Surely not those who knew him only in the various phases of his public life. To those who were the companions of his boyhood, who had struggled with him to meet the exactions of the college classroom, who had joined him on the ball field, who had camped with him in the forest—who, in short, knew the boy that was in the man—to them comes the profoundest grief that he is no more. Their affection found deeper root than in admiration for his successes. They knew him to be a simple-hearted, generous, helpful, unaffected man, who rejoiced in the happiness of others, who was sensible of the value of human love, who was a child when there was time to play, whose heart was easily touched, and whose friendship held fast in all weathers. To them was given a glimpse of the man's inner nature. They saw the melancholy aspect of the tremendous battle he made for quick personal distinction.

He was at Leipzig at school when he became first convinced that his expectation of life was short. He was hopeful, but he lost no time. He could not afford to idle on the way. He saw the shadow that rested on the future. He could not put it out of account. The terrible realization was his, and his alone. It was from this that his nervous force proceeded. His energy was almost unnatural. People said he was burning the candle at both ends. He knew it, but he also knew the reason why. A day lost was not to be made up. From him was shut the fond belief that after the struggle would come the restful vales of age. It was always with him a race with the grim specter. Yet he was joyous, undeterred, buoyant, and ever planning. When the real conflict with disease came he fought for life as men have rarely fought. He perceived the futility of the struggle, yet he was defiant. He took every chance. For months he lived by the sheer force of his will. At last the end is reached.

The heroic soul is released. His dreams are over. His ambitious spirit is at rest. "The expectancy and the rose of the fair state" is become a memory. The eulogies we pay can not be deemed extravagant, though he who has been taken away was but yesterday, it seems,

"In the morn and liquid dew of youth."

His work was not complete. But though the shaft he reared lacks the capital, that which remains to tell us of his genius is so wondrous in its beauty and promise that we may not question what the grace of its ultimate perfection would have been. It is eloquent of all that is best and bravest in man.

The following editorial is taken from the Memphis (Tenn.) Daily Commercial, of Sunday, February 8, 1891:

DEATH OF REPRESENTATIVE PHELAN.

Announcement of the death of Mr. James Phelan, member of the Federal House of Representatives from this district, is made by telegraph in another column. The sad event occurred on the 30th of January, in Nassau, whither he had gone in recuperation of his health after he had sold The Avalanche. Before that event he had for several months made trial of the dry air of Southern Texas, but without avail, and he went to Nassau as a last refuge in an effort to stay the hand of the destroyer. As in the case of nearly all persons suffering with consumption, he was full of hope, but his friends—those nearest to him—in Memphis could not deceive themselves, and they felt in parting with him that it was for the last time.

Mr. Phelan came prominently into public view five years ago as a candidate for Congress. Up to that time he had been identified with The Avalanche, as its proprietor, for a few years. But he was not as conspicuous even in that position as he subsequently became as a candidate for the Democratic nomination to Congress. As such he had to confront the fixed purposes of the leaders of the party in the district, who had determined to place Col. Josiah Patterson in

nomination. But Mr. Phelan, having made some preparations in the form of a personal canvass of the district, declined to give way, and the result was a joint preliminary canvass by him and Colonel Patterson, which, for almost bitterness, has never been surpassed even during campaigns between candidates of opposing parties. It resulted in Mr. Phelan's triumph, in his nomination before the convention without opposition, as Colonel Patterson very prudently withdrew on finding himself in a hopeless minority. Two years subsequently Mr. Phelan was renominated without opposition and was re-elected, but his seat was contested by his Republican opponent, Col. L. B. Eaton, and the case is still undecided.

Mr. Phelan possessed many of the qualities necessary for success in public life. He was characterized by an indomitable will, by a driving energy, and an aggressiveness that sometimes precipitated him into unnecessary bickering and debate. He could not wait for attack, but always took the initiative, and, with a boldness and courage which even his enemies admired, pushed to the front and there remained until the battle was won or lost. He was of Scotch-Irish origin, and by temperament was an excellent illustration of the daring and dash of the one race and the bull-dog tenacity of the other. He was fearless as to consequences, and when his interests were at stake manifested an unyielding disposition. As a Democrat, he was well grounded in the principles of his party, and was an earnest advocate of them and a ready defender. Of this he gave the people he represented in Congress the very best proofs during the campaign he made in the district. As a speaker he was noted for directness of statement and an unflinching courage, for persistency and pertinacity, and, when necessary, for a pugnacity which nothing could turn aside but the conceded defeat of his opponent.

As to his usefulness in public life it is impossible to say anything more than that it promised well for him and his constituents. Nothing above the performance of his routine duties was to be expected of him in the first two sessions of Congress (the Fifth and the Sixth), and he was too far gone in consumption to do more than defend his seat in the Fifty-first, now nearing the close of its life.

The disease he suffered from and the knowledge that it was hereditary in his family must account for the restlessness which prevented the calmness that usually waits on deliberation. For this reason he was unable to carry his History of Tennessee, an admirably projected work, with anything like detailed consecutiveness down to the time he had fixed upon, or even to the close of the civil war. He applied himself assiduously in research for material for this work in the State Library and in that of the Historical Society in Nashville, but his distractions of business and of public employment intervened to prevent as satisfactory results as twenty years later, when he had had a life's experience, he might have accomplished.

Mr. Phelan was at the best a man of promise, of bright promise, who, under circumstances of good health and seclusion, might have made the name he coveted in literature. His aspirations were all of them noble ones, and his ambition to excel was worthy of the best. His tastes and inclinations were literary, and his sympathies were in that direction, and what he accomplished in his two histories—one of them for schools—counting even their angrily disputed failings, gave earnest of better things when time had mellowed the mind now untimely silenced forever.

The following editorial is taken from the Memphis (Tenn.) Public Ledger, of Sunday, February 8, 1891:

DEATH OF JAMES PHELAN.

The genial face of our gifted young Congressman will be seen no more on the streets of Memphis. After a gallant struggle with an incurable disease he breathed his last at Nassau on the 30th of January. A valiant spirit went back to the God that gave it and the pale tenement that contained it will be returned to this country and committed to mother earth.

The news of Mr. Phelan's death, although coming sooner than expected and causing sincere and general sorrow, was not a great surprise. For nearly two years he had been in ill health and for more than one year was but seldom in his seat in Congress. He spent several months in South Carolina; then last spring came here en route for San Antonio, Tex., and points beyond there. The little news that came of an encouraging nature from time to time was nearly always supplemented by an expression of doubt and anxiety. Finally he returned to wind up his business affairs, and only a few of his special friends intruded on his privacy. All felt that the end of a bright and useful life was near at hand and that to call on him was to enter but the anteroom of a death chamber. Still he was courageous, cheerful, and to some degree hopeful. He had an idea, as most people have under similar conditions, that he might live much longer, and felt that it was his duty to fight against fate to the end, be it far or near, and so he did.

On the 8th of November he sold The Avalanche, a property that he valued very highly, to the Appeal, and soon after that went to Washington to join his wife and children and with them soon afterward sailed for the Bahamas, hoping that salt air and a soft Southern climate would afford a temporary relief and probably give him a new lease on life. But it was too late; he had long before passed the fatal danger line, and no change, no human fortitude, medical skill, or tender care of affectionate hands was of any avail. No details have been received. We merely know that it is all over; that a weary, worn-out body is no longer capable of pain or feeling, and that the soul that so long beat against the bars is released from its abode of weariness and wailing.

The life of James Phelan has often been published. He was born at Aberdeen, Miss., December 7, 1836, and was therefore a little over thirty-four years of age. In his brief life he accomplished more than many prominent men of twice his years. His early education was received at the schools here in Memphis. Then he attended the Kentucky Military Institute, at Frankfort, Ky., and afterwards took a special course at the university at Leipsic, Germany, where he was given the degree of doctor of philosophy. Coming home soon after he was of age, he was admitted to the bar and entered actively into the practice of his profession, and also engaged in business and literary pursuits. He wrote with a free hand upon various topics for leading magazines, and found time later on to write a concise, analytical, and valuable school history of Tennessee, which involved him in a personal and unpleasant discussion about a year ago. This was carried on through two of the leading papers of the State and at one time seemed to threaten a resort to the code.

Mr. Phelan was very happily married a few years after his return from Germany to a Miss Early, niece of General Jubal Early, of Virginia. She is a highly educated woman and has been his faithful adviser and support in all his struggles, and shared his darkest days as well as his triumphs. Under his proprietorship The Avalanche was a vigorous, incisive paper and a power in the land, although it was never used as a factor to promote his private or political fortunes. He was respected by true men in both political parties alike. Had he lived his second term in Congress would have expired on the 4th of March next. Although his seat was contested vigorously by Colonel Eaton, the Republicans never cared to press the matter and declare his seat vacant. Owing to ill-health he declined to be a candidate for nomination at the last Congressional convention. Hence Col. Josiah Patterson was the nominee and was elected by a handsome majority.

It is not easy to analyze the character of such a man as James Phelan. He came of heroic Irish stock on his father's side, and inherited Scotch tenacity and wisdom from his mother. He was aggressive without being unjust, self-reliant without vanity or egotism, and sought the suffrages of the people only to increase opportunities of usefulness. Thoroughly public spirited and in sym-

pathy with the masses, he at the same time looked after and managed his private affairs with consummate skill. A wide acquaintance with leading politicians, literary men, and financiers gave him superior advantages. We seldom meet or read of such a man. His versatility was something wonderful. He could call nearly everybody he had ever met by name, and was equally at home in a drawing room or in a company of grimy workmen.

Take him in all as a man, we never shall look on his like again. Peace to his soul and all honor to the memory of James Phelan. The world is the better for his brief sojourn in it, and those who emulate his sterling traits of character, his devotion to family and country, and his struggles in the various vicissitudes of life from boyhood and youth to a premature grave, may also serve themselves, their fellow-men, and their Creator with becoming modesty and a clear conscience.

Editorial from the Memphis Scimitar, Saturday evening, February 7:

JAMES PHELAN DEAD.

A brief dispatch from Nassau, New Providence, via New York, announces the death of Hon. James Phelan, member of Congress from this district.

The news is not surprising, in view of Mr. Phelan's state of health when he left Memphis for Nassau four months ago, but his friends were not without hope that the mild climate of the Bahamas would lengthen his days, though they could not expect a cure.

There is no need to tell who James Phelan was or what part he has played in the public view. The people of the Tenth district have shown, by electing him twice to Congress, their appreciation of his talents and devotion to their interests. He gave promise of becoming one of the best, as he was one of the youngest, Representatives that Tennessee has ever had in the National Legislature.

Personally as well as politically Mr. Phelan was a man of mark. He had the faculty of binding his friends to him with hooks of steel, and those who opposed him could not but pay tribute to the virile mentality and courage for which he was distinguished.

He was a little more than thirty-five years old. The Scimitar extends its heartfelt sympathy to his stricken family.

The following editorial is from the Daily American, Nashville, Tenn., Sunday morning, February 8, 1891:

THE DEATH OF HON. JAMES PHELAN.

It is with a feeling of regret singularly painful that we announce the death of Hon. James Phelan, though for some months the steady ravages of his disease have foretold with dreadful certainty that the end was near. The failure of Mr. Phelan's health marred a brilliant career in politics, and his vacant seat in Congress during the whole of his past term has been a mute but pathetic witness to the fast-fading promise of high honors to be achieved in the service of his country.

Mr. Phelan was a man of high scholarly attainments and a student in general literature, as well as in questions of politics and political economy. If he had been spared we believe the expectations of his friends would have been fully met by his success in the path he had chosen to pursue. He possessed singular qualifications for a successful political career, combining in a rare degree the qualities of a shrewd, practical politician and party manager with those of a thoughtful and intelligent student of public affairs.

Mr. Phelan's literary work in enduring form is confined to his History of Tennessee, a book which has received the highest praise from a number of the best literary critics in the country and which will hold a place as a classic among State histories. His editorial work on the Memphis Avalanche was of the highest order of journalism, and he wrote largely in the way of literary reviews for some of the leading journals of the country. He was yet but a young man when death closed down upon his work, and there was just enough of his life to give a definite promise of a career full of honor to himself and of usefulness to his country.

Mr. WHEELER, of Alabama. Mr. Speaker, among the members who appeared before the Speaker's desk at the assembling of the Fifty-third Congress was one whose bearing, figure, and grace attracted marked attention. He looked so youthful that it seemed he could hardly have reached the constitutional age. His face unmistakably indicated culture and intelligence, while his bearing was characterized by that lofty courtesy which we all soon learned to admire and respect in him. He was the elected member for the district which includes the city of Memphis.

He had been chosen by the people of that cultivated metropolis to guard their interests in the Congress of the United States, and all remember the faithfulness, zeal, and energy displayed by him in the performance of his duty. He bade fair to become one of the most distinguished men of all our Southern States, and had God spared him there could be no doubt, in my mind, that he would have been one of the eminent men who are to be developed from the youth now growing up in the Southern country.

None of us would have conceived it possible that this youthful-looking colleague was one whose loss we would be called upon to mourn before the close of the Fifty-first Congress.

James Phelan sprang from a family of character and distinction. His father was an eminent jurist and served with great credit to himself and the State of Mississippi in the senate of the Confederate States. His uncle was also an eminent jurist and for many years adorned the supreme bench of the State of Alabama, and the opinions written by that distinguished judge are quoted in the text-books on nearly every subject that has engaged the attention of writers upon law.

Our departed and lamented brother was a worthy descendant of his noble ancestry. Educated in the best universities of this and foreign countries, finished by travel and intimate association with the most highly polished society and the best minds of America and Europe, and possessing most, if not all, of the accomplishments of a graceful and a courtly gentleman, he had, before reaching the age at which most men begin their careers, advanced far up on the ladder of literary fame.

Phelan's History of Tennessee will take its place among the most valuable historical works of the time, and is conclusive evidence of the author's painstaking study, judicial and impartial mind, and of his high mental endowments. How sadly we heard of his failing health; and finally the last message came from the isle where gentle breezes, warmed

by the Gulf Stream, play among the flowers whose perfume fills the air of that far-off land, the warmth, brightness, and beauty of which were so happily typical of the gentle, kindly, and lovable spirit which there, to our and his country's loss, took its flight to another and purer home.

James Phelan, though the last one expected to pass away, was possibly the best prepared of any of us to leave this world and meet his God. He was a Christian in all that is implied by that term, a Christian in his commune with his Maker and in his dealings with man. His life, like that of all true Christian men, was a beautiful exemplification of what such a life should be. Surrounded by his charming family, a wife well worthy of such a man and children who promise to take their place as his worthy successors in future years, his was a home which it is sad to contemplate, bereft as it now is of a loving father and devoted husband.

Mr. Speaker, it is sad that this is all we can do and say in behalf of this our beloved colleague. He has passed away. He has gone to another land, and we know, Mr. Speaker, that he will reap in that land the reward of a good, pure, noble, and well-spent life, wholly unselfish in its aims and animated by the loftiest patriotism in its purposes.

Calm, peaceful, self-contained, consciously the master of many noble natural gifts and a vast amount of laboriously acquired knowledge, and yet as unpretentious and modest as a girl, we can well imagine that it was the close of such a life, devoid of self and consecrated to the welfare of others, that the poet contemplated when he wrote these beautiful lines:

Let sober triumphs wait upon my bier:
I'll not forgive that friend who sheds one tear.
Let no unworthy sounds of grief be heard,
No loud laments, not one unseemly word;
For, whether gathered in life's early morn,
Or in old age he drops like an ear of corn
Full ripe, he dies on nature's noblest plan
Who lives to reason and who dies a man.

Mr. McMILLIN. Mr. Speaker, there are a number of gentlemen who desire to submit remarks, and I will ask that general leave upon this subject be granted.

The SPEAKER *pro tempore*. Without objection, that leave will be granted.

There was no objection.

Mr. McMILLIN. Mr. Speaker, this Congress has an unprecedented death roll. Not only have a number of the oldest and most experienced been taken, but we are now called upon to offer in sadness our tribute to the memory of one of the youngest.

James Phelan was born in Aberdeen, Miss., December 7, 1856. He was an illustrious son of an illustrious sire. His father was a Confederate senator from a State renowned for the strength of those it trusted with high office.

He moved from Mississippi with his father when but eleven years old to Memphis, the scene of his early struggles and ultimate triumphs.

Young Phelan received a private-school education, and in 1871 entered the Kentucky Military Institute near Frankfort. He spoke often and ever enthusiastically of the days spent there. The boldness, candor, and hospitality of the Kentuckian were traits that met ready and kindred response in his own nature.

After leaving this Kentucky college he went to Leipsic, Saxony, and entered the university there. He took the degree of doctor of philosophy in February, 1878; returned to Memphis, studied law, and began the practice in 1881. He married Miss Mary Early, of Virginia. He had an intense thirst for knowledge, and acquired it with great rapidity. He spoke other languages than his own with fluency. He was not only a great reader, but a systematic student. He read rapidly, digested thoroughly, and retained accurately. Both in his private correspondence and in preparing manuscript for his paper or his books he wrote with a rapidity almost incredible.

He drove forward as one might be expected to who had premonition that he was soon to die, and had determined to crowd the work of a whole life into half a life. A Scotch-Irishman by descent, he had all the pertinacity of the Scot united with all the enthusiasm of the Irish. At his fireside, with his family, among his friends, he was all kindness and gentleness. Yet, a bolder and more courageous man did not live. He was too proud to give an insult intentionally, too spirited to take one tamely.

His was a remarkable career. He succeeded everywhere. Few men have the versatility of talent he exhibited. Though untrained in that work, by apprenticeship or otherwise, he ventured into the great field of journalism, and succeeded from the beginning. He bought and operated successfully one of the greatest papers of his State.

Notwithstanding his other engagements, he found time to write a history of his people and his State, which is a monument to his industry, his research, and his ability as a writer.

In the midst of these pursuits, sufficient by their importance and the drafts they made on his time, to engross or overwhelm an ordinary mind, he resolved to blaze out a new path of glory.

He was not content with ancestral fame or to be known because his fathers were.

He determined to seek a seat in this Hall, to become a Representative of the greatest of all the Governments. Few thought he could succeed. Fewer still would have dared try the experiment under the disadvantages surrounding him. But he dared, and he won—won when opposed by some of the strongest and best men of his State.

He came here modest, unassuming, but with the same determination to succeed here which had marked him elsewhere. He talked to me often of his plans; and, had he lived and kept his strength, I have not the least doubt he would have made this the greatest success of all.

What a record! At twenty-nine years, unaided, he had gone through the colleges of two countries, had taken a law course, was known to and recognized by men of letters as an author of ability, was running a great daily paper, and represented 150,000 people in Congress.

Col. H. M. Doke, formerly associated with Mr. Phelan in journalism, correctly epitomized his character in these words:

Gifted with lofty powers of imagination, he had not yet reached a knowledge of or the full unfolding of his own powers. His genial humor, pleasant, agreeable wit, and kindly, sympathetic nature, and his large knowledge and cultivation easily attuned him to companionship with men of all kinds and conditions. He was equally fitted by his keen knowledge of men and his responsive sympathies for association with statesmen, savants, and with artisans, or to shine in the social circle. His was a rare nature, gentle but strong, impulsive but calm, sympathetic but not to be misled by sympathy, gifted to please but unobtrusive, brave but never vaunting its courage, simple as a child's but strong as a true man's, proud with a manly pride but not puffed up, strong in individuality but never vain, quietly responsive to any mood in others but not swayed thereby, and always calm and affable. He was a man a child could approach with perfect trust, a man the strongest, the rudest never thought of approaching rudely. Something in his gentle, calm, but firm dignity forbade that.

He had succeeded, but he had exhausted himself to do it. His health gave way about the time of his coming to Congress. He was re-elected by his people, but in the second term was seldom able to enter the Hall.

He sought health in Southern Texas and in the highlands further west, but without avail. Thence he went a few weeks before his death to Nassau. But it was too late. He died far from his own land, surrounded by his wife and three children, left to mourn him.

Oh, what a noble heart was here undone
When Science' self destroyed her favorite son.
Yes, she too much indulged thy fond pursuit;
She sowed the seeds, but death has reaped the fruit.
'Twas thine own genius gave the final blow,
And helped to plant the wound that laid thee low.

Mr. Speaker, whilst it is sad to contemplate the death of such a man, it is a blessing for such to have lived. Is this the end of such nobility of soul? Can such be merely mortal? It can not be! A consolation like that so beautifully expressed by Ion will come to those who had seen him and known him. Ion was asked by Clemantha:

And shall we never see each other again?

He answered:

Yes!
I have asked that wonderful question of the hills
That look eternal; of the flowing streams
That lucid flow forever; of the stars,
Amid whose fields of azure my raised spirit
Hath trod in glory. All were dumb; but now,
While I thus gaze upon thy loving face,
I feel the love that kindles through its beauty
Can never wholly perish. We shall meet
Again, Clemantha.

The SPEAKER *pro tempore*. The question is on the adoption of the resolutions.

The resolutions were agreed to; and accordingly (at 5 o'clock and 52 minutes p. m.) the House adjourned until 8 o'clock p. m.

EVENING SESSION.

The House met at 8 o'clock p. m., pursuant to order.

ORDER OF BUSINESS.

The SPEAKER. The Chair has to announce that the Journal is not ready to be presented.

ORDER OF BUSINESS.

Mr. WILSON, of Missouri. Mr. Speaker, I ask unanimous consent for the consideration of a bill.

Mr. ROGERS. Mr. Speaker, let us have the regular order.

Mr. COLEMAN. What is the regular order?

The SPEAKER. The regular order is business on the Speaker's table.

Mr. WILSON, of Missouri. I hope the gentleman from Arkansas will withdraw his demand for the regular order and allow me to have a little claim referred to the Court of Claims. There is nothing involved in it at all except a reference to the Court of Claims.

Mr. CUTCHEON. Regular order.

Mr. WILSON, of Missouri. I will take the responsibility of saying that the objection is withdrawn.

The SPEAKER. If the objection is withdrawn, the Chair will proceed to recognize gentlemen. Does the gentleman withdraw his objection?

Mr. ROGERS. Mr. Speaker, it seems to me that it is a great deal

more important to dispose of Senate bills now on the Speaker's table than to take up bills that will not go through both Houses.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCook, its Secretary, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on bills of the following titles:

A bill (H. R. 7254) to repeal timber-culture laws and for other purposes; and

A bill (H. R. 12312) to grant a pension to Mary C. Hoffman, widow of General William Hoffman.

The message also announced that the Senate had passed without amendment 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.

It also announced that the Senate had passed the bill (S. 4897) to provide for the safe transport and humane treatment of export cattle from the United States to foreign countries, and for other purposes; in which the concurrence of the House was requested.

It also announced that the Senate had passed without amendment the bill (H. R. 182) for the erection of United States prisons and for the imprisonment of United States prisoners, and for other purposes.

It also announced that the Senate had passed without amendment bills of the following titles:

A bill (H. R. 1512) for the relief of the heirs of Thomas Black;

A bill (H. R. 2281) for the relief of Charles Wording and others, owners of the brig Xenophon;

A bill (H. R. 3551) for the relief of John S. Johnston;

A bill (H. R. 4376) for the relief of Washington L. Parvin and Henry A. Greene;

A bill (H. R. 4380) to correct the record of John Holloran, and for other purposes;

A bill (H. R. 5861) for the relief of George Farwalt;

A bill (H. R. 6018) for the relief of Thomas B. McElwee;

A bill (H. R. 6019) for the relief of Luther M. Blackman;

A bill (H. R. 6179) to remove the charge of desertion from record of James Blythe;

A bill (H. R. 9252) for the relief of Frank Schaden;

A bill (H. R. 10566) for the relief of Mrs. M. J. Donahue; and

A bill (H. R. 11344) to correct the military record of Abram T. Springsteen.

It also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House was requested:

A bill (H. R. 2407) for the relief of Mary A. Lee; and

A bill (H. R. 5860) for the relief of Andrew J. Blackstone.

It also announced that the Senate had passed with amendments the bill (H. R. 5802) for the relief of Luman B. Palmeter, asked for a conference with the House on the bill and amendment, and had appointed Mr. CAMERON, Mr. DAVIS, and Mr. WALTHALL as the conferees on the part of the Senate.

It also announced that the Senate had passed with amendments joint resolution (H. Res. 98) providing for the greater security of the public buildings in the District of Columbia and their contents from destruction or damage by fire, asked a conference with the House on the bill and amendments, and had appointed Mr. MORRILL, Mr. SQUIRE, and Mr. VEST as the conferees on the part of the Senate.

COPYRIGHT BILL.

The SPEAKER. The Chair lays before the House a bill the title of which the Clerk will read.

The Clerk read as follows:

A bill (H. R. 10881) to amend Title LX, chapter 3, of the Revised Statutes of the United States, relating to copyrights.

Mr. PAYSON. Mr. Speaker, before that bill is presented I ask whether it would be in order that its presentation be deferred until members shall have more generally arrived. I know that quite a number of gentlemen who feel a deep interest in the bill left the House on the assumption that the matter under consideration when the eulogies upon Mr. Phelan were entered upon would be resumed upon the assembling of the House to-night, and that being the fact I ask unanimous consent that this bill lie on the Speaker's table without prejudice until there shall be a fuller attendance. The gentleman from Connecticut [Mr. SIMONDS] who reported this bill, and who feels a deep interest in it, and a number of other gentlemen who, with myself, are opposed to it, would desire to be present during its consideration, and therefore it seems to me eminently proper that it should be laid aside temporarily.

Mr. OATES. I wish to concur in the request of the gentleman from Illinois.

Mr. MILLS. I would suggest to the gentleman from Illinois that he had better reserve his point of order.

Mr. PAYSON. That can be raised at any time after the reading of the bill.

Mr. PETERS. Mr. Speaker, I desire to submit a parliamentary inquiry, and that is, whether or not this bill should go to the committee for consideration under the regular order.

Mr. PAYSON. That need not be made until the bill comes up. My request is that the bill shall remain on the Speaker's table without prejudice; and that of course included the idea suggested by the gentleman from Kansas that all questions of order which may be proper to be made should be made when the bill shall be presented in its regular order. Therefore I ask unanimous consent that the bill remain temporarily on the Speaker's table.

The SPEAKER. What does the gentleman's request mean—that it may be presented by the Chair at any time hereafter?

Mr. PAYSON. At any time.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be temporarily laid aside, to be presented at any time during the evening. Is there objection?

Mr. ROGERS. What is the bill?

The SPEAKER. The title has been read.

Mr. ROGERS. Is this request to extend beyond this evening?

Mr. PAYSON. Oh, no; not at all.

The SPEAKER. The Chair understands he is at liberty to present it after any other bill has been disposed of.

Mr. PAYSON. Yes.

There was no objection, and the bill was laid aside.

ERECTION OF UNITED STATES PRISONS.

The SPEAKER laid before the House the bill (H. R. 182) for the erection of United States prisons and for the imprisonment of United States prisoners, and for other purposes.

The SPEAKER. In regard to this bill the Chair lays before the House the request of the Senate, which the Clerk will read.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES, February 23, 1891.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 182) for the erection of United States prisons, etc.

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

There was no objection, and it was so ordered.

ELIZABETH R. LEE.

The SPEAKER laid before the House the bill (S. 4488) granting a pension to Elizabeth R. Lee, with the House amendment disagreed to, and in which a conference was asked.

Mr. YODER. I move that the House concur in the Senate amendment.

The SPEAKER. It is a House amendment that the Senate disagrees to, and on which a committee of conference is requested.

Mr. CHEADLE. I desire to ask the gentleman from Ohio [Mr. YODER] to state the difference between the Senate and the House in this proposition.

Mr. YODER. Mr. Speaker, I was mistaken. I thought it was an amendment to a House bill and that the Senate had asked for a conference.

The SPEAKER. The question is, Shall the House insist upon its amendment and agree to the committee of conference asked?

The question was put, and the motion was agreed to.

So a committee of conference was ordered.

The SPEAKER. The Chair announces as conferees on the part of the House Mr. BELKNAP, Mr. SAWYER, and Mr. YODER.

DISEASES OF THE HORSE.

The SPEAKER also laid before the House the joint resolution (H. Res. 287) to print 100,000 copies of the report on the diseases of the horse, with Senate amendments.

The amendments were read.

Mr. FUNSTON. I move that the House nonconcur in the Senate amendments and agree to the conference asked.

Mr. OATES. I move to concur in the Senate amendments.

The SPEAKER. That motion has precedence.

Mr. FUNSTON. Is the question now open for discussion, Mr. Speaker?

The SPEAKER. The question is open for discussion.

A MEMBER. I desire to say it is almost the unanimous wish of this House that 100,000 copies of this report be printed.

A MEMBER. What report is it?

Mr. FUNSTON. It is the report on the horse. The Senate amendment cuts down the number to 50,000, whereas we have asked for 100,000. Now, if we nonconcur we can make a compromise by which we can get at least 75,000 copies, and I repeat, there is no other book produced by the Department so valuable as this or for which there is such a demand.

Mr. CHEADLE. Is that the book on diseases of the horse?

Mr. FUNSTON. Yes, it is the book pertaining to the diseases of the horse.

Mr. CHEADLE. I hope the amendment of the Senate will not be concurred in.

Mr. OATES. Mr. Speaker, I know the book is a valuable one. I made the motion to concur with the view of saving time, but several gentlemen around me desire that I withdraw it, and in compliance with their request I will do so.

Mr. MORSE. Mr. Speaker, I trust that we shall vote nonconurrence. I have taken the pains to examine this book myself and I can tell members who have not examined it that it is one of the most valuable books ever issued by the Department of Agriculture. I have a great many applications for it on file myself.

The SPEAKER. The question is on the motion of the gentleman from Kansas [Mr. FUNSTON] to nonconcur in the amendment of the Senate.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. FUNSTON, Mr. BLISS, and Mr. MORGAN.

CAROLINE DAWSON.

The SPEAKER also laid before the House a bill (S. 13159) restoring the pension of Caroline Dawson, with amendments of the Senate thereto.

The Senate amendments were read.

Mr. WALTER I. HAYES. Mr. Speaker—

Mr. MORRILL. Mr. Speaker, I move that the House concur in the amendments of the Senate.

Mr. WALTER I. HAYES. That was the motion that I desired to make, Mr. Speaker.

The object of the House bill was to restore to the pension roll the name of Caroline Dawson, whose name had been thereon and stricken off by reason of her remarriage, and the language of the bill was not only according to precedent, but was apt for this purpose and much better and more correct than that of the Senate, which places her in terms upon the pension roll as if it was a new case. However, I suppose the same result is reached and at this time in the session it is not best to stand on mere language.

The motion was agreed to.

NANCY JANE KNETSAR.

The SPEAKER also laid before the House a bill (H. R. 13030) to grant a pension to Nancy Jane Knetsar, of Moline, Ill., with an amendment of the Senate thereto.

The Senate amendment was read.

Mr. MORRILL. I move that the House concur in the amendment of the Senate.

The motion was agreed to.

JAMES H. WALTON.

The SPEAKER also laid before the House a bill (H. R. 7813) to place the name of James H. Walton on the pension rolls, with an amendment of the Senate thereto.

The Senate amendment was read.

Mr. MORRILL. I move that the House concur.

The motion was agreed to.

MARGARET M. COPELAND.

The SPEAKER also laid before the House a bill (H. R. 7233) granting a pension to Margaret M. Copeland, with Senate amendments.

The amendments were read.

Mr. MORRILL. Mr. Speaker, I move that the House concur in the amendments of the Senate.

The motion was agreed to.

COPYRIGHT BILL.

Mr. SIMONDS. Mr. Speaker, I ask to take from the Speaker's table the copyright bill, which was laid aside without prejudice, with the Senate amendments thereto.

Mr. PAYSON. Mr. Speaker, I desire to reserve all questions of order upon that bill.

The SPEAKER. The questions of order are reserved until the amendments are read.

The SPEAKER laid before the House the bill (H. R. 10881) to amend Title LX, chapter 3, of the Revised Statutes of the United States, relating to copyright.

The Senate amendments were read.

Mr. SIMONDS. Mr. Speaker, I move that the House nonconcur in the amendments of the Senate and agree to a conference, and on those two motions I move the previous question.

Mr. PAYSON. Questions of order are reserved on this bill.

Mr. SIMONDS. Go ahead.

Mr. PAYSON. Mr. Speaker, I assume that this bill is laid before the House under clause 2 of Rule XXIV, for present consideration. Upon that status of the bill I make the point of order, and insist that in its present condition the bill must go to the Calendar of the Whole House on the state of the Union, that it must receive its first consideration in Committee of the Whole, and that it is not in order for consideration at this time under the rules of the House, nor for the motion made by the gentleman from Connecticut [Mr. SIMONDS]. All four

of these propositions I insist upon as against the right of this bill to be considered now.

Clause 2 of Rule XXIV provides that:

House bills with Senate amendments which do not require their first consideration in a Committee of the Whole may be at once disposed of as the House may determine.

It will be insisted, I take it, by the gentleman from Connecticut, that this bill comes within that provision of the rule.

I insist that the Senate amendments to this bill, to which I shall call attention later, are of such a character that they come within Rule XX of the House of Representatives. The rule provides that—

Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point.

The Senate amendments to which I make these objections are found on pages 4 and 5 of this bill. It will be noticed, Mr. Speaker, that section 3 of the bill, commencing in its concluding paragraph at the bottom of line 3, reads:

During the existence of such copyright—

Which is a copyright provided for these books, two copies of which shall be filed in the office of the Librarian of Congress, printed from type set in this country, without regard to where the books may be printed, as a matter of fact—

That during the existence of such copyright the importation into the United States of any book so copyrighted, or any edition or editions thereof, etc., within the limits of the United States, shall be, and is hereby, prohibited, except in the cases specified in section 2505 of the Revised Statutes of the United States.

Now, the bill as it passed the House related to books alone, and there was an express prohibition of the importation of any such books into the United States except in cases specified in section 2505 of the Revised Statutes. That section is the free list, and the books which would be embraced within its provisions are books more than twenty years old, that is, more than twenty years having elapsed from the date of publication; books, maps, etc., for the use of the United States or the Library of Congress; books, two copies of which may be imported for the use of certain societies; books for educational institutions, academies, colleges, and the like, and books for the personal use of professional men. With the exceptions I have just named, the bill as it left the House provided for an absolute prohibition of the importation of that character of books.

Now, Mr. Speaker, what has the Senate amendment done? It has introduced into this bill an entire revolution of certain paragraphs of the tariff law. It has enlarged the provisions of the original bill so that not only are books within a qualified instead of an absolute prohibition, but added to that is the provision I am about to read. It will be remembered that the prohibition now extends to maps, dramatic compositions, musical compositions, engravings, chromos, lithographs, cuts, prints, or photographs. The exception which was in the original bill has been entirely obliterated, and in lieu of that this exception is provided in the bill:

Except that all books, maps, charts, dramatic or musical compositions, engravings, cuts, prints, lithographs, photographs, or negatives thereof, or any paintings, drawings, chromos, statues or statuary so copyrighted, the author, inventor, designer, or proprietor of which shall be a citizen, subject, or resident of a foreign country.

Instead of an absolute prohibition of importation such as was contained in the bill when it left the House there is now only a qualified prohibition so far as it extends, but it embraces within it all the articles I have named—articles relating to art, music, the drama, education, articles of statuary, paintings, and all that sort of thing; and it allows the importation of any of these articles provided the author, proprietor or copyrighter is a citizen of a foreign country, making a discrimination as against citizens of the United States and in favor of a foreigner as to these articles. That is to say, under the bill as it passed the House no copyrighted book except a book upon the free list could be admitted into this country under the pains and penalties provided in the bill.

Now, no matter where the book may be printed, no matter where the work may be executed, except the bare typesetting of the two copies which go into the Library of Congress, if the author, inventor, or proprietor of the copyright is a citizen of a foreign country the book may be imported at dutiable rates. But suppose a copyrighted edition of a book printed under this bill in this country, sent abroad, and sold at no matter what price, then, under the operation of this bill, in the monopoly which it gives to publishers on this side, the price might be put beyond the reach of any purchaser, and yet not one of these books could be imported from abroad, although the entire edition in the first instance might be sold by the American publisher and the American author.

For these reasons, Mr. Speaker, I insist that the provisions in this bill introduce a new proposition. And the authorities are uniform under the old rules as well as under the present that when a new proposition is introduced into a House bill by a Senate amendment, which new proposition if originating in the House would subject the measure to the point of order, it must be first considered in the Committee of the Whole. The provisions of the Senate amendments com-

ing within the rule I have stated, these new propositions are subject to the point of order, because beyond question they are revenue measures. The tariff is directly concerned with the administration of these provisions of the Senate amendments to this bill.

The SPEAKER. Was it not also concerned in the original bill?

Mr. PAYSON. It was, Mr. Speaker, and I am coming to that in a single moment. It is in the line of my argument. It was concerned in the original bill, and that question leads me to anticipate what I have no doubt is in the mind of the Speaker at the present time, that the bill—the House bill—having originated in the House and there having its first consideration in the Committee of the Whole House on the state of the Union or in the House in a manner tantamount to a consideration in the Committee of the Whole—that is to say, in the House without the point of order being raised against it—therefore these amendments, being germane, would amount to a provision offered in the House, but which were not, and therefore it may come within the rule, so often decided in this body, that where a Senate amendment to a House bill covers the general subject-matter under consideration, but which does not introduce a new proposition beyond either the increase or the decrease of the amount of the appropriation carried by the bill, it has been uniformly held, I concede, not to be subject to the point of order.

But, Mr. Speaker, when this bill was considered in the House it was in contemplation that every member had the bill before him. It was in the power of every and any member to make a point of order against the bill when it was considered in the House, and not in Committee of the Whole, that it should be so considered. What is the reason for a bill of this character being considered in the Committee of the Whole House on the state of the Union?

It is that any bill which carries with it an appropriation of the public money, which provides for the disposition of the public property, which either diminishes or releases any liability due to the United States, or which is concerned directly or indirectly with the revenues of the Government, must have its first consideration in the Committee of the Whole House on the state of the Union, because of the right and privilege thus given in Committee of the Whole for discussion and amendment without the restrictions which are carried by the House rules to cut off debate. It has been deemed advisable that such provisions in the popular branch of a Government such as this should be considered in that manner, and that the right of so considering them should be extended to the members of the body.

But that is a right which may be or may not be exercised, and which will or will not be exercised, as the judgment of the individual members shall control them as to the necessity for its exercise. And so when this bill was presented to the members of the House they were satisfied with its provisions in the shape in which it was presented. There was nothing in the bill when it was so considered in its bearing on the tariff or any question of Government liability that the members of the House were not perfectly content with; and, being so content, consent was given that it should be considered in the ordinary way and with the ordinary limitations adopted by the House rules in the consideration of any matter.

But I insist, sir, that, when the bill had been considered in the House and sent to the Senate as our bill for their consideration, it is utterly immaterial to inquire, and it can have no bearing whatever upon the present situation of the bill, whether it was then considered in Committee of the Whole or not. It is a matter of no concern whatever, as far as the present situation is concerned, whether the bill was so considered or otherwise, because when the House passed the bill it had rules under which it acted, or the limitations under which members acted, which rules and limitations were behind all of us. It was a House bill sent to the Senate for its approval.

Now, the Senate ingraft upon the House bill new provisions, ingraft provisions which could not have been in contemplation by the members of the House when the bill was presented for our consideration here, because, for instance, there was absolute prohibition of all books under the bill. It related to books, and books alone, as the prohibited class. Nothing was said as to maps, charts, engravings, statuary, pictures, and works of art. There was no question of their prohibition. The only prohibition so far as tariff duties and importations were concerned had reference to that subject, books, and bore alike on foreigner and citizen. There was no distinction made in the importation of such matters as to aliens or citizens. No exception was made in favor of one class as against another.

Therefore the matter is as plain as that two and two make four in mathematics that the new propositions incorporated in the bill, involving the revenues of the Government, make it amenable to the point of order. This to my mind seems to be as clear as the sun at noontime. These are new propositions, new matters of legislation incorporated in the bill, making it subject to the point of order that it should receive its first consideration in Committee of the Whole House on the state of the Union; and, if so, it can not be considered by the House as unfinished business upon the Speaker's table.

If I have made myself intelligible that is all I care to say at the present time.

Mr. SIMONDS. Mr. Speaker, I have listened with a great deal of

attention and interest to the remarks of the gentleman from Illinois and I think I have heard every word he has said. But I must say that I have not heard him state a single proposition which tends to show that this bill with the Senate amendments is required by the rules to be considered in a Committee of the Whole House on the state of the Union.

The gentleman's arguments seem to proceed from first to last upon the assumption that there is some new proposition in the Senate amendments, and therefore the bill must go to the Committee of the Whole House on the state of the Union.

I think the gentleman will assent, when he stops to think for a few moments, that that position is not a sound one. The new proposition in the bill, to be objectionable, must be one which comes within the rule to which the gentleman has referred.

Clause 3 of Rule XXIII provides that there shall be considered in a Committee of the Whole—

All motions or propositions involving a tax or charge upon the people, etc.

I submit that from first to last the gentleman omitted to consider that important part of the rule.

Now, my friend drew attention first to the amendment, by way of erasure, on page 4, where these words are erased:

Except in the cases specified in section 2505 of the Revised Statutes of the United States,

saying that there was an exemption of the old free list which now is stricken out, leaving in its place a bare prohibition as to the articles specified in the old free list. Now let me call the attention of the gentleman and of the House to this fact, that those words, as they are printed there, are a nullity, that there was no section 2505 of the Revised Statutes of the United States at the time the Senate bill was passed. This bill was drawn before ever the new tariff law was enacted. It lay here on the Calendar so long that the new tariff bill became a law; and by that bill the whole of section 2505 was neutralized, put out of existence, so those words were a nullity when this law was passed; and one object of the action of the Senate surely is simply to erase from the text words that mean absolutely nothing. That fact of itself disposes of all argument which may be made upon that section.

But let us assume that full force is given to it. Let us assume that there was a section 2505 of the Revised Statutes. Has the gentleman pointed out how the prohibition of importation involves a tax or charge upon the people? It is a fact that the two parties differ politically as to whether a tariff is a tax, but in no legal sense and in no accepted sense was it ever held that a prohibition of importation involved a tax or a charge upon the people, and that is sufficient as to those points.

The gentleman proceeds to discuss the amendment by way of addition in italics on page 4, involving lines 39 to 46 inclusive, as if there was something in that which required this bill to go to the Committee of the Whole. Now that is not true. That does not alter the tariff law one whit. Under the existing law, when a citizen takes a copyright, all the articles which are the subject-matter of the copyright can not be imported. There is a prohibition of importation under the law. I have it here. I will not stop to read the whole of it. I refer to sections 4964 and 4965 of the existing statute, which prohibit the importation of every one of the articles mentioned as the subject-matter of copyright under existing law; but only citizens may take copyright.

Under that law, the production of a foreigner, of one of these subjects-matter, is proper to be imported on payment of the ordinary duties, and the same state of facts exists exactly under the Senate bill as amended, to wit: That when a citizen takes copyright, none of the copyrighted articles can be imported. But, if the same things are the production of a foreigner, then they may be imported upon the payment of the ordinary duties, and these words here in this part which have been referred to—

Upon payment of the duties now imposed by law at the time of the importation—

are simply put there out of abundant caution, and for the very purpose of saying that this amendment is in no way to interfere with the tariff regulations and laws.

Mr. PAYSON. Will it interrupt the gentleman if I ask him a question just there?

Mr. SIMONDS. Perhaps not.

Mr. PAYSON. Will not the gentleman concede that under the bill as it stands now a copyrighted article may be introduced, upon payment of tariff duties, by a citizen of a foreign state? Is not that conceded, that under the bill a copyrighted book or other article may be imported by a citizen of a foreign state upon payment of duty?

Mr. SIMONDS. Certainly.

Mr. PAYSON. Will not the gentleman also concede that it would be impossible for an American author or an American publisher, having sold an entire edition abroad, to import a single one of those books? Is not that the fact under this bill?

Mr. SIMONDS. I do not think I catch the gentleman's meaning.

Mr. PAYSON. You, being a publisher, issue an edition of 10,000 copies of a book, and you sell it to a jobber in London. Under this bill, you being a citizen of the United States, would you be permitted to go to London and rebuy that edition and import it yourself?

Mr. SIMONDS. I am unable to answer that sort of an involved question; but I will say this—

Mr. PAYSON. There is nothing involved in it.

Mr. SIMONDS. Very well; we will call it a plain question, if you please; but what I said a moment ago applies equally now. Will the gentleman produce any authority for the proposition that the prohibition of importation was ever held to involve a tax or charge upon the people?

Mr. PAYSON. Always.

Mr. SIMONDS. Where?

Mr. PAYSON. Under existing law. There is a duty of 25 per cent. ad valorem now upon every book that is imported, except a specified few, and upon paintings, statuary, chromos, and other works of art, 15 per cent. ad valorem.

Mr. SIMONDS. Is that a prohibition?

Mr. PAYSON. No; but it is a revenue measure, as I insist, as to this bill.

Mr. SIMONDS. Exactly; when you come to rates of duty the supposition or presumption is that if you raise it from 25 to 30 per cent. there you are bringing forward a measure which involves a tax or charge upon the people; but no authority on earth would say that you impose a tax or charge upon the people if you prohibit the importation of the thing, and legal authority does not exist for any such proposition.

Mr. PAYSON. Will the gentleman allow me to make myself plain just here? The bill as the House passed it prohibited absolutely the importation of any books except those that were upon the free list. The present bill provides that books, paintings, statuary, and enumerated articles to any extent may be imported upon the payment of duties, provided the importer is either the author, inventor, or proprietor of the copyright and a citizen of a foreign country; therefore a new proposition, changing the classes which are benefited by the tariff law, and coming clearly within the rule.

Mr. SIMONDS. Mr. Speaker, I have just pointed out the fact that it is exactly as it is in the existing law. Under existing law a citizen's copyright thing can not be imported when the same thing is produced in a foreign country. That is the existing law, and that same thing exists in this bill, and there is not the slightest interference with the revenue in that particular.

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

Mr. SIMONDS. I will.

Mr. HERBERT. Why does not the gentleman base his argument upon the well-known Republican doctrine or idea that a tariff is not a tax?

Mr. SIMONDS. I said a moment ago—

The SPEAKER. The Chair trusts that the discussion may be confined somewhat within limits, and not get into the broad range of the tariff.

Mr. SIMONDS. So far as I am concerned, I am ready for the Speaker to rule.

Mr. BOUTELLE. I believe the New York Press has a copyright on the parrot that reiterates the cry that "a tariff is a tax." [Laughter.]

Mr. HERBERT. If a tariff is not a tax, then there is no use of imposing it.

The SPEAKER. The Chair can not listen to this. It is not informing. [Laughter.]

Mr. ADAMS. Mr. Speaker, I would like to be heard against the point of order, if the Chair desires to hear me.

The SPEAKER. The Chair would be glad to hear the gentleman.

Mr. ADAMS. If I remember aright, when this bill passed the House it passed in the morning hour. It was the general understanding that the bill was not subject to the point of order that it should be considered in Committee of the Whole. I do not believe that a failure of the House to send it to the Committee of the Whole was due to any willingness of any member to concede anything, but under the belief of the House that it was not subject to that point of order; and it was not in fact subject to that point of order.

The part of the bill to which my colleague calls attention is an amendment in which the prohibition in the House bill is modified by the Senate. The whole question in the House bill affected the prohibition of importation, and my colleague says that a new proposition is in the bill, because the scope of that prohibition is enlarged or narrowed. That does not prove his case.

Take this case, Mr. Speaker. Suppose there is an article like silk or velvet or anything else subject to a customs duty, on which some foreigners have put as a trade-mark the American flag or the American eagle, or both together. Suppose we chose to enact that because of that trade-mark it shall not be imported into this country. Suppose the House should pass a bill in that form and that the Senate should amend it by providing that the prohibition should only apply to those cases in which both these insignia were on the trade-mark; that would be an exactly parallel case. It is not a revenue proposition, but is a prohibition that indirectly affects the revenues of the United States. I suppose the Speaker is very thoroughly aware of the distinction pointed out on page 336 of the Digest between a provision of a bill

which directly affects the revenue and those provisions which only indirectly or incidentally affect the amount of taxation collected at the customhouse. A provision of the first kind is subject to the point of order made by my colleague; a provision of the second kind is not.

Now, there is no doubt that if a book may be imported at 25 per cent. under our customs laws and you say that that book shall not be imported at all, the revenue may be diminished. It is on the presumption that books which you prohibit would, if not prohibited, be imported and pay the import duty; and that is all the argument of my colleague amounts to. That there is a new proposition in the Senate amendment, I admit. My colleague calls it an odious discrimination. That is an argument on the merits. The motion was to nonconcur in that proposition, and it is not worthy the occasion to argue the case on its merits at all.

Mr. PAYSON. If the gentleman will allow an interruption there, I did not make that except to emphasize the position which I had taken that this was a new proposition; that there was a discrimination, and an odious one, which conclusively settled the fact that the proposition was a new proposition.

Mr. ADAMS. And when the gentleman says it is an odious one it is an argument on the merits; and again I will call my colleague's attention to the fact that the motion now pending is to nonconcur in this proposition which he talks about. But the question is not on the merits, but on the point of order.

The question is not whether it is a new proposition, but whether a proposition which was not a revenue proposition in the House bill has been converted into a revenue proposition by the Senate amendment, and I insist that where you put a prohibition in the House bill, and put that in not for the purpose of revenue, although it may incidentally affect the revenue, no amendment which enlarges or narrows the scope of that prohibition is any more a revenue proposition than the proposition in the original House bill.

The SPEAKER. The Chair desires to say that the evil which was intended to be remedied by the twentieth rule of the House was an evil which manifested itself in bills containing different items. The House would pass a bill containing a number of items and the Senate would add other items thereto, involving other and further expenditure, and when the bill came back it would be held that that did not send it to the Committee of the Whole, because the amendment had been made by the Senate. But it seems to the Chair that the objection presented here is neither within the evil to be remedied nor within the language of the rule.

The amendment which has been made by the Senate in this case is nothing more than a legitimate amendment of a proposition which had already passed the House. That proposition is added to and changed and contains different ideas; nevertheless they are within the scope of a proper and suitable amendment. If the amendment of the Senate is open to the point of order, the original proposition in the House was equally open to it, and if it had been considered in Committee of the Whole it would have been understood that it was considered with every possible amendment in view. So, when it is considered in the House without any point of order made, it is also to be understood as having been considered from every point of view, including the possibility that the Senate would make this change.

The Chair thinks that this portion of the bill has received the consideration which the rules of the House require, and that the rules of the House do not require that every amendment which is made by the Senate to substantive propositions, which are modifications only, shall be reviewed in the House in Committee of the Whole. The Chair therefore overrules the point of order.

Mr. SIMONDS. Mr. Speaker, I move to nonconcur in the Senate amendments and agree to the request for a conference, and on those two motions I move the previous question.

Mr. PAYSON. Mr. Speaker, I move to concur in the Senate amendments, and that motion takes precedence. I am satisfied, Mr. Speaker (on the motion to concur), that this bill is a much better bill than we would get from a committee of conference.

The SPEAKER. The gentleman from Connecticut [Mr. SIMONDS] is entitled to the floor.

Mr. PAYSON. But the motion to concur takes precedence of the motion to nonconcur.

The SPEAKER. It does; but that does not discharge the gentleman from Connecticut from having charge of the bill.

Mr. PAYSON. No, but it permits the entry of the motion to concur.

The SPEAKER. It permits that, and the question will be taken on the motion to concur, but the gentleman from Connecticut [Mr. SIMONDS] has still charge of the bill and is entitled to the floor and is entitled to make his motion. Does the gentleman from Connecticut yield to the gentleman from Illinois?

Mr. SIMONDS. If the Chair has heard my motions and entertains them, I have nothing further to say. The motions I made were to nonconcur and agree to the request for a conference, and on those two motions I moved the previous question. So far as I am concerned the gentleman from Illinois [Mr. PAYSON] can debate his motion now, if he desires.

The SPEAKER. Then the question of ordering the previous question will be first put, and if it is ordered there will be twenty minutes on each side for argument.

Mr. PAYSON. A parliamentary inquiry, Mr. Speaker. Does not the motion to concur take precedence of the motion to nonconcur and agree to a committee of conference?

The SPEAKER. It does.

Mr. PAYSON. Then I stand here in my right to make a motion which is privileged above that of the gentleman from Connecticut.

The SPEAKER. Not quite that. The Chair has had occasion to pass upon this matter once, or more than once before, and the decision was that while the motion to concur had preference, nevertheless the gentleman in charge of the bill was entitled first to ask the House to pass upon preliminary questions such as the previous question.

Mr. PAYSON. There is no logic in that, Mr. Speaker; and if there is any precedent I would like to see it.

The SPEAKER. That is the ruling which the Chair has made.

Mr. PAYSON. But, Mr. Speaker, how can there be any logic in the position that I stand here in better right as to a motion than the gentleman from Connecticut, and yet that, because he is recognized to make an inferior motion, he may demand the previous question upon his motion, and prevent me from debating my motion, which is one of superior right? If the Chair thinks there is any logic in that I would be glad to have him indicate it.

The SPEAKER. The Chair thinks there would be still worse logic in a position which would allow the bill to be taken away from the gentleman who has charge of it without the vote of the House.

Mr. PAYSON. But that will not be done if he will make the motions which are entitled to priority, in the order of their priority.

The SPEAKER. That is, if he will make the motion which the gentleman from Illinois [Mr. PAYSON] desires to make, and which the Chair has ruled that the gentleman is entitled to make. The Chair has so ruled, but that ruling does not deprive the gentleman from Connecticut of having charge of the bill. If the gentleman from Illinois will reflect he will see that that result would not be satisfactory nor in accordance with the rules of the House.

Mr. DOCKERY. Mr. Speaker CARLISLE in the first session of the last Congress made a decision touching a general appropriation bill in accord with the ruling just made by the Chair.

The SPEAKER. The Chair desires to say that this is the uniform decision on the subject.

Mr. SIMONDS. I endeavored to hear the ruling of the Speaker a moment ago, but in the confusion I could not.

The SPEAKER. The Chair decides that the motion for the previous question is in order.

Mr. KERR, of Iowa. I rise to a parliamentary inquiry. If the previous question is sustained, will the question be taken on the motion to concur?

The SPEAKER. It will; and if that motion is voted down it will be equivalent to a vote to nonconcur.

Mr. BRECKINRIDGE, of Kentucky. I rise to a parliamentary inquiry. Has there been any debate on the question up to this time?

The SPEAKER. There has not; and if the previous question should be ordered there will be twenty minutes for debate on each side.

Mr. HERBERT. I desire to ask—

The SPEAKER. No debate is in order pending the demand for the previous question.

Mr. HERBERT. I wish to make a parliamentary inquiry. Does the Chair decide that the gentleman from Connecticut has the right to demand the previous question on the motion of the gentleman from Illinois?

The SPEAKER. The Chair decides that he has, if the gentleman from Alabama wishes to put it in that way, though the Chair thinks that is not strictly accurate.

Mr. PAYSON. I wish to make a parliamentary inquiry. If the previous question should be ordered, will it be in order before final action is taken to move to commit this bill to a committee with certain instructions?

The SPEAKER. The Chair thinks not.

Mr. PAYSON. Why?

The SPEAKER. Because this is a question of concurring or nonconcurring.

Mr. BRECKINRIDGE, of Kentucky. We did not hear the answer of the Chair to the last inquiry.

The SPEAKER. The Chair stated that the motion to commit would not be in order.

Mr. SPRINGER. We want to protest against that ruling. The question being taken on ordering the previous question, there were—ayes 91, noes 60.

Mr. PAYSON. Let us have tellers.

Tellers were ordered; and Mr. SIMONDS and Mr. PAYSON were appointed.

The House again divided; and the tellers reported—ayes 97, noes 62. So the previous question was ordered.

The SPEAKER. The gentleman from Connecticut has now control

of twenty minutes for debate, and the gentleman from Illinois [Mr. PAYSON] an equal time.

Mr. SIMONDS. I am willing the gentleman from Illinois shall go on now.

Mr. PAYSON (after a pause). I am willing to take a vote at once.

The SPEAKER. As no gentleman wishes to occupy time in debate, the question is upon concurring in the Senate amendments.

Mr. PAYSON. A single inquiry: Would it be in order to move to concur in the Senate amendments with an amendment?

The SPEAKER. It would not, because the previous question has been ordered.

Mr. CUMMINGS. Is it understood that the friends of the House bill will vote "no" on this question, and the friends of the Senate bill "ay"?

The SPEAKER. That is not strictly a parliamentary inquiry. But those who are not in favor of the Senate amendment will vote "no," because the present question is on the motion to concur. The effect of negating that motion will be to affirm the motion to nonconcur, one vote covering both questions.

Mr. SIMONDS. My motion is to nonconcur.

The SPEAKER. The vote will be now taken upon the motion of the gentleman from Illinois [Mr. PAYSON] that the House concur in the Senate amendments. Those who are opposed to concurrence will vote "no;" and if the negative votes should prevail it will be the equivalent of an affirmative vote to nonconcur, one vote settling both questions.

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

The yeas and nays were ordered.

The question was taken; and it was determined in the negative—yeas 64, nays 128, not voting 137; as follows:

YEAS—64.			
Bankhead,	Forman,	Mansur,	Sayers,
Barwig,	Forney,	Martin, Tex.	Seney,
Blanchard,	Fowler,	McClammy,	Skinner,
Blount,	Funston,	McClellan,	Smith, W. Va.
Brickner,	Gest,	McCord,	Stewart, Tex.
Brookshire,	Haugen,	Mills,	Stockdale,
Buchanan, Va.	Heard,	Morgan,	Sweeney,
Cannon,	Herbert,	Owens, Ohio	Taylor, J. D.
Catchings,	Hill,	Payson,	Thomas,
Clements,	Holman,	Petkins,	Turner, Ga.
Cobb,	Kerr, Iowa	Perkins,	Wade,
Cothran,	Knapp,	Raines,	Whitelaw,
Culbertson, Tex.	Lacey,	Ray,	Wike,
Dickerson,	Lane,	Reed, Iowa	Williams, Ill.
Edmunds,	Lanham,	Rogers,	Wilson, Mo.
Fithian,	Lewis,	Rowell,	Wilson, Wash.
NAYS—128.			
Adams,	Culbertson, Pa.	McComas,	Russell,
Allen, Mich.	Cummings,	McCormick,	Sawyer,
Andrew,	Cutcheon,	McDuffie,	Seranton,
Arnold,	Dalzell,	McKenna,	Scully,
Atkinson, Pa.	Dingley,	McKinley,	Simonds,
Baker,	Dockery,	McRae,	Snyser,
Belknap,	Dorsey,	Miles,	Snider,
Bliss,	Dunnell,	Miller,	Springer,
Boatner,	Evans,	Mofitt,	Stephenson,
Boutelle,	Farquhar,	Montgomery,	Stockbridge,
Bowden,	Flower,	Moore, N. H.	Stone, Mo.
Breckinridge, Ark.	Geary,	Morey,	Sweet,
Breckinridge, Ky.	Geisshainer,	Morrow,	Tarsney,
Brosius,	Gibson,	Morse,	Thompson,
Brunner,	Goodnight,	Mudd,	Tillman,
Buchanan, N. J.	Grout,	Mutchler,	Townsend, Colo.
Burrows,	Harmer,	O'Donnell,	Townsend, Pa.
Burton,	Haynes,	O'Neil, Mass.	Tucker,
Caldwell,	Kelley,	O'Neil, Pa.	Turner, Kans.
Carter,	Kerr, Pa.	Osborne,	Vandever,
Caruth,	Ketcham,	Parrett,	Vaux,
Cheadle,	Kinsey,	Payne,	Waddill,
Cheatham,	La Follette,	Paynter,	Walker,
Chipman,	Laidlaw,	Pennington,	Wallace, N. Y.
Clancy,	Langston,	Pickler,	Wheeler, Mich.
Clark, Wyo.	Lansing,	Pierce,	Whiting,
Cogswell,	Lawler,	Post,	Wickham,
Coleman,	Laws,	Price,	Willcox,
Connell,	Lee,	Quackenbush,	Williams, Ohio
Cowles,	Lehbach,	Quinn,	Wilson, W. Va.
Craig,	Lodge,	Randall,	Wright,
Crisp,	Martin, Ind.	Reilly,	Yardley.
NOT VOTING—137.			
Abbott,	Browne, Va.	Davidson,	Hare,
Alderson,	Buckalew,	De Lano,	Hatch,
Allen, Miss.	Bullock,	Dibble,	Hayes, W. I.
Anderson, Kans.	Bunn,	Dolliver,	Hays, E. R.
Anderson, Miss.	Butterworth,	Dumphry,	Hemphill,
Atkinson, W. Va.	Bynum,	Ellis,	Henderson, Ill.
Banks,	Campbell,	Enloe,	Henderson, Iowa
Barnes,	Candler, Ga.	Ewart,	Henderson, N. C.
Bartine,	Candler, Mass.	Featherston,	Hermann,
Bayne,	Carlton,	Finley,	Hitt,
Beckwith,	Caswell,	Fitch,	Hooker,
Belden,	Clark, Wis.	Flick,	Hopkins,
Bergen,	Clarke, Ala.	Flood,	Houk,
Biggs,	Clunie,	Frank,	Kennedy,
Bingham,	Comstock,	Gear,	Kilgore,
Bland,	Cooper, Ind.	Gifford,	Lester, Ga.
Boothman,	Cooper, Ohio	Greenhalge,	Lester, Va.
Brewer,	Covert,	Grimes,	Lind,
Brower,	Crain,	Grosvenor,	Magner,
Brown, J. B.	Dargan,	Hall,	Malsh,
Browne, T. M.	Darlington,	Hansbrough,	Mason,

McAdoo,	Peel,	Smith, Ill.	Tracey,
McCreary,	Perry,	Spinola,	Turner, N. Y.
McMillin,	Pindar,	Spooner,	Van Schaick,
Milliken,	Pugsley,	Stahnecker,	Wallace, Mass.
Moore, Tex.	Reyburn,	Stewart, Ga.	Washington,
Morrill,	Richardson,	Stewart, Vt.	Wheeler, Ala.
Niedringhaus,	Rife,	Stivers,	Whitthorne,
Norton,	Robertson,	Stone, Ky.	Wiley,
Nute,	Rockwell,	Stone, Pa.	Wilkinson,
Oates,	Rowland,	Struble,	Wilson, Ky.
O'Ferrall,	Rusk,	Stump,	Yoder.
O'Neall, Ind.	Sanford,	Taylor, E. B.	
Outhwaite,	Sherman,	Taylor, Ill.	
Owen, Ind.	Shively,	Taylor, Tenn.	

So the motion to nonconcur was agreed to.

The following additional pairs were announced:

Mr. TAYLOR, of Illinois, with Mr. CRAIN, from Saturday until Monday morning.

Mr. BERGEN with Mr. O'FERRALL, until further notice.

Mr. PUGSLEY with Mr. ROWLAND, on this vote.

Mr. BROWNE, of Virginia, with Mr. WASHINGTON, on this vote.

Mr. FLOOD with Mr. BARNES, on this vote.

Mr. NIEDRINGHAUS with Mr. RICHARDSON, on this vote.

Mr. REYBURN with Mr. MCADOO, on this vote.

Mr. SANFORD with Mr. MAISH, on this vote.

Mr. WALLACE, of Massachusetts, with Mr. SHIVELY, on this vote.

Mr. VAN SCHAICK with Mr. PINDAR, for the rest of the day.

Mr. BARTINE with Mr. BLAND, for the rest of the day.

Mr. EDWARD R. HAYS with Mr. MOORE, of Texas, for the rest of the day.

Mr. MILLIKEN with Mr. DIBBLE, for Saturday, February 28, 1891.

Mr. ROCKWELL with Mr. LESTER, of Georgia, for the rest of the day.

Mr. CANDLER, of Massachusetts, with Mr. HENDERSON, of North Carolina, for the rest of the day.

Mr. TAYLOR, of Tennessee, with Mr. RUSK, for the rest of the day.

Mr. DARLINGTON with Mr. OUTHWAITE, for the evening session.

Mr. HERMANN with Mr. McMILLIN, for the evening session.

Mr. OATES with Mr. STEWART, of Vermont, for the evening session.

Mr. STIVERS with Mr. DUNPHY, for the evening session.

Mr. BELDEN with Mr. COVERT, for the evening session.

Mr. SHERMAN with Mr. FITCH, for the evening session.

Mr. FLICK with Mr. DAVIDSON, for the evening session.

Mr. BREWER with Mr. BLANCHARD, for the evening session.

Mr. DE LANO with Mr. NORTON, for the evening session.

Mr. GEAR with Mr. CAMPBELL, for the evening session.

Mr. GREENHALGE with Mr. O'NEALL, of Indiana, for the evening session.

Mr. ATKINSON, of West Virginia, with Mr. ALDERSON, for the evening session.

Mr. DOLLIVER with Mr. CLUNIE, on this vote.

The result of the vote was then announced as above recorded.

The SPEAKER. In the absence of objection, the conference will be ordered.

There was no objection.

Mr. PAYSON. Mr. Speaker, I offer the following instructions to the conference committee about to be appointed.

Mr. BRECKINRIDGE, of Arkansas. Pending that, if the gentleman from Illinois will permit me, I wish to call the attention of the gentleman from Connecticut to a typographical error which I think has been overlooked, and if the same error appears in the engrossed bill it should be corrected. In line 46, of page 4, you will see that the word "imposition" is used where I presume the word "importation" was intended.

Mr. SIMONDS. I am glad the gentleman has called attention to it. It is evidently a mistake.

Mr. PAYSON. The conference committee can arrange that.

Mr. SIMONDS. I would ask if the same error appears in the engrossed bill?

The SPEAKER. The Chair is informed that the engrossed bill is correct. The mistake is a typographical error in the printed bill.

The Clerk will read the instructions proposed by the gentleman from Illinois.

The Clerk read as follows:

That the conference committee be instructed to insist on engraving upon the bill in conference the principles involved in the following bill:

"A bill to provide for the compensation of foreign authors for the use of copyright in the United States.

"That no person shall print, reprint, publish, import, copy, or finish any book, manuscript, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, or statuette, which has been, or shall be at any time hereafter, written, composed, invented, designed, or made by any nonresident alien without first filing with the clerk of the district court of the United States for the district in which such person resides a bond, with penalty and sureties to the satisfaction of such clerk, conditioned that he shall file with such clerk, monthly, a sworn report of all such books, manuscripts, maps, charts, compositions, engravings, cuts, prints, photographs or negatives, or copies thereof, printed, reprinted, published, imported, copied, finished, or sold by him, and the amounts received for the same, and for each of the same, and the retail prices thereof; and also conditioned that he shall at the same time deposit with such clerk, together with each of said reports, a sum of money equal to 10 per cent. of the retail

price of all such books, manuscripts, maps, charts, compositions, engravings, cuts, prints, photographs or negatives, or copies thereof, printed, reprinted, published, imported, copied, finished, or sold by him during the time covered by such report; which said sums shall be paid by such clerk to the author, composer, inventor, or designer of such book, manuscript, map, chart, composition, engraving, cut, print, photograph, or negative, or to his or her heirs, executors, or administrators, on demand: *Provided, however,* That there shall be so deposited not less than 5 cents for every such book, manuscript, map, chart, composition, engraving, cut, print, photograph, or negative, or copy thereof, so printed, reprinted, published, imported, copied, finished, or sold: *And provided further,* That this section shall not apply to books, manuscripts, maps, charts, compositions, engravings, cuts, prints, photographs, or negatives not copyrighted in the country of which the author, composer, inventor, designer, or maker is, or shall be, a citizen; and shall continue in effect only for twenty-eight years from the time the same was, or shall be, so copyrighted.

"Sec. 2. That if any person shall, within the term limited, print, reprint, publish, copy, or finish any book, manuscript, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, or negative thereof, or of a painting or drawing, chromo, statue, or statuette, written, composed, invented, designed, or made by a nonresident alien and copyrighted in the country of which such alien is a citizen, without having filed a bond as required in the first section of this act, or shall sell or expose for sale any book or other article aforesaid, or any copy thereof, knowing that such bond has not been filed by the publisher or printer thereof, such person shall forfeit the same and every copy thereof to the author, composer, inventor, or designer thereof, or his or her heirs, executors, or administrators, and shall also forfeit and pay such damages as may be recovered in a civil action by such author, inventor, or designer, or his or her heirs, executors, or administrators, in any court of competent jurisdiction.

"Sec. 3. That the district courts of the United States shall have power, upon application of any such author, composer, inventor, designer, or maker, or his heirs, executors, administrators, or attorneys, in a summary manner, to compel the production of books of account and other evidence, and the filing of correct reports and depositing of money, under the provisions of this act, and to compel the attendance of parties and witnesses and to compel them to testify; and to restrain by injunction the printing, reprinting, publishing, copying, finishing, or selling of such books, manuscripts, maps, charts, dramatic or musical compositions, engravings, cuts, prints, or photographs or negatives aforesaid, until the filing of the bond or bonds aforesaid, and for such other periods as they shall deem best, and to make and enforce such other directions in relation to the enforcing of the provisions of this act as they shall deem best; and the circuit courts, and the district courts having the jurisdiction of circuit courts, shall have power, upon bill in equity filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by this act on such terms as the court may deem reasonable and to enforce the provisions of said act, and to grant such other relief in accordance with the terms and spirit thereof as they may deem best, according to the course and principles of courts of equity."

Mr. SIMONDS. I desire to make the point of order against the instructions proposed: First, that these instructions, if adopted, would do away with the sole text of the bill, to which both Houses have already agreed, and it is not permissible under the precedents. Again, that it is not permissible to instruct the conferees in the first instance, and before they have met and disagreed.

Mr. ADAMS. I desire to be recognized at the proper time to make the further point of order that it is not germane.

Mr. PAYSON. I should like to be heard, Mr. Speaker, briefly on the question of order.

If the Chair has paid attention to the reading of the proposed instruction he will notice that it provides that the conference committee when appointed shall engrave upon the pending bill principles which are involved in the instruction I have caused to be read. The principle involved there is the payment of a royalty by a publisher to an author whose works are published. I may say in this connection that the proposed instruction was not my preparation. It was prepared by one of the most eminent lawyers in one of the greatest cities in the United States—I mean Chicago—a man of large experience in literary matters, and who had prepared this as a bill to be offered in connection with the copyright bill at the proper time. Parliamentary technicalities have thus far, however, prevented any opportunity for the House of Representatives to consider in any form the principles therein involved.

The gentleman from Connecticut makes the point of order that this would destroy the bill which the House has passed, and to that I agree. The object of that bill, without impugning the motives of anybody—or perhaps I had better put it in another way—the result of the passage of the bill would be the creation of a monopoly as to book publishing in this country; and I agree, therefore, that the instruction, if adopted by the House, will destroy that monopoly absolutely.

That the instruction is not germane to the pending bill is suggested by the gentleman from Illinois [Mr. ADAMS], my colleague. It is germane, Mr. Speaker; and why? Because it relates to the copyright system.

It does not interfere with the securing of a copyright by any author or publisher, but provides that the benefits of the copyright, instead of going to a favored publisher, may be availed of by any publisher who will pay 10 per cent. of the proceeds of the sale of the published book to the author. Nothing can be fairer to the author than the provision of the bill that he shall be paid a percentage; whether this is the right percentage or not, I do not now stop to discuss, because I do not limit the amount of percentage by the motion which I make.

But a percentage to be paid by the publisher to the author is all that the author has the right to ask; and no honest publisher can object to a proposition which compels him to pay a certain percentage to the author whose work he is publishing. It is germane to the main object of the bill, because it is only an added step to the execution of what may become the law of the country. That is all I care to say with reference to it. There is no injustice about it. It protects pub-

fishers, and at the same time it gives the people of this country what they have a right to expect, legislation which is not in terms, and in its direct results, absolutely monopolistic.

Mr. DINGLEY. But the gentleman has not touched upon the point of order.

The SPEAKER. The Chair sustains the point of order.

Mr. DINGLEY. The point of order as to the right of the House to instruct conferees in the first instance.

Mr. PAYSON. If the Chair please, the gentleman from Maine says that I have not touched upon the point of order, that the House has no right to instruct its conferees.

Mr. DINGLEY. Not upon their first free conference—not until there has been a disagreement.

Mr. PAYSON. I hold in my hands the authorities, which are uniform. There is no break in the line of authorities that it is in the power of this House to instruct its conferees in the first instance. If there is any doubt about that, perhaps I had better read it.

The SPEAKER. The Chair does not base his ruling upon that point.

Mr. PAYSON. If the Chair agrees with me on that point, I do not care to read it. The authorities are uniform, however, upon that.

The SPEAKER. The Chair sustains the point of order.

Mr. SIMONDS. Have the conferees been agreed upon?

The SPEAKER. The Chair will appoint the conferees.

Subsequently the Speaker appointed as conferees Mr. SIMONDS, Mr. BUCHANAN, of New Jersey, and Mr. COWLES.

ENOS J. SEARLES.

The SPEAKER also laid before the House the bill (H. R. 1204) increasing the pension of Enos J. Searles, with Senate amendments.

The amendments of the Senate were read at length.

Mr. MORRILL. I move to concur in the amendments of the Senate. The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed the bill (S. 4119) granting the right of way to the Metropolitan Southern Railroad Company through the property of the United States in Montgomery County, Maryland; in which the concurrence of the House was requested.

INDUSTRIAL ART.

The SPEAKER also laid before the House the following House resolution with Senate amendments:

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

The amendments of the Senate were read.

Mr. CUTCHEON. In behalf of the gentleman from Ohio [Mr. BUTTERWORTH], who is not present, I move to concur in the Senate amendments.

The motion was agreed to.

ALMOND C. WALTERS.

The SPEAKER also laid before the House the following House bill with Senate amendments:

A bill (H. R. 9877) directing the Secretary of War to issue an honorable discharge to Almond C. Walters.

The amendments of the Senate were read.

Mr. O'DONNELL. I move that the House concur in the Senate amendments.

The motion was agreed to.

REPORT OF COMMISSIONER OF LABOR.

The SPEAKER also laid before the House the following House resolution with Senate amendments:

Joint resolution (H. Res. 158) to provide for the printing of the fifth annual report of the Commissioner of Labor.

The Senate amendments were read.

Mr. RUSSELL. I move to concur in the Senate amendments.

Mr. KERR, of Iowa. I wish to ask what is the effect of the amendments.

Mr. RUSSELL. The simple effect is to reduce the number of the edition.

The motion was agreed to.

TIMBER-CULTURE LAW.

Mr. PAYSON. Mr. Speaker, I have a conference report that I desire to present.

The Clerk began the reading of the report, which is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7254) to repeal timber-culture laws, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to the same with amendments as follows; so that the bill as amended will read:

"Be it enacted, etc., That an act entitled 'An act to amend an act entitled 'An act to encourage the growth of timber on the Western prairies,' approved June 14, 1878, and all laws supplementary thereto or amendatory thereof, be, and the same are hereby, repealed: *Provided*, That this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected upon due compliance with law, in the same manner, upon the same terms and

conditions, and subject to the same limitations, forfeitures, and contests as if this act had not been passed: *And provided further*, That the following words of the last clause of section 2 of said act, namely, 'That not less than twenty-seven hundred trees were planted on each acre,' are hereby repealed: *And provided further*, That, in computing the period of cultivation, the time shall run from the date of the entry if the necessary acts of cultivation were performed within the proper time: *And provided further*, That the preparation of the land and the planting of trees shall be construed as acts of cultivation, and the time authorized to be so employed and actually employed shall be computed as a part of the eight years of cultivation required by statute: *Provided*, That any person who has made entry of any public lands of the United States under the timber-culture laws, and who has for a period of four years in good faith complied with the provisions of said laws and who is an actual bona fide resident of the State or Territory in which said land is located, shall be entitled to make final proof thereto, and acquire title to the same, by the payment of \$1.25 per acre for such tract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, and registers and receivers shall be allowed the same fees and compensation for final proofs in timber-culture entries as is now allowed by law in homestead entries: *And provided further*, That no land acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

"Sec. 2. That an act to provide for the sale of desert lands in certain States and Territories, approved March 3, 1877, is hereby amended by adding thereto the following sections:

"Sec. 4. That at the time of filing the declaration hereinbefore required the party shall also file a map of said land, which shall exhibit a plan of showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural crops, and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections, or fractional parts of sections, of desert lands may associate together in the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements.

"Sec. 5. That no land shall be patented to any person under this act unless he or his assignors shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least \$3 per acre of whole tract reclaimed and patented in the manner following: Within one year after making entry for such tract of desert land as aforesaid the party so entering shall expend not less than \$1 per acre for the purposes aforesaid; and he shall in like manner expend the sum of \$1 per acre during the second and also during the third year thereafter, until the full sum of \$3 per acre is so expended. Said party shall file during each year with the register proof, by the affidavits of two or more credible witnesses, that the full sum of \$1 per acre has been expended in such necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail during any year to file the testimony aforesaid the lands shall revert to the United States, and the 25 cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of \$3 per acre: *Provided*, That proof be further required of the cultivation of one-eighth of the land.

"Sec. 6. That this act shall not affect any valid rights heretofore accrued under said act of March 3, 1877, but all bona fide claims heretofore lawfully initiated under said act, upon due compliance with the provisions of said act, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this act had not been passed; or said claims, at the option of the claimant, may be perfected and patented under the provisions of said act, as amended by this act, so far as applicable; and all acts and parts of acts in conflict with this act are hereby repealed.

"Sec. 7. That any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the register and the receiver of the reclamation and cultivation of said land to the extent and cost and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and that he or she is a citizen of the United States, and upon payment to the receiver of the additional sum of \$1 per acre for said land, a patent shall issue therefor to the applicant or his assigns: But no person or association of persons shall hold by assignment or otherwise, prior to the issue of patent, more than 320 acres of such arid or desert lands but this section shall not apply to entries made or initiated prior to the approval of this act: *Provided, however*, That additional proofs may be required at any time within the period prescribed by law, and that the claims or entries made under this or any preceding act shall be subject to contest, as provided by the law relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, and the lands, and moneys paid therefor, shall be forfeited to the United States.

"Sec. 8. That the provisions of the act to which this is an amendment, and the amendments thereto, shall apply to and be in force in the State of Colorado, and as well as the States named in the original act; and no person shall be entitled to make entry of desert land except he be a resident citizen of the State or Territory in which the land sought to be entered is located.

"Sec. 9. That section 2288 of the Revised Statutes be amended so as to read as follows:

"Sec. 2288. Any bona fide settler under the pre-emption, homestead, or other settlement law shall have the right to transfer, by warranty against his own acts, any portion of his claim for church, cemetery, or school purposes, or for the right of way of railroads, canals, reservoirs, or ditches for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title of his claim.

"Sec. 4. That chapter 4 of Title XXXII, excepting section 2275, 2276, 2286 of the Revised Statutes of the United States, and all other laws allowing pre-emption of the public lands of the United States, are hereby repealed, but all bona fide claims lawfully initiated before the passage of this act, under any of said provisions of law so repealed, may be perfected upon due compliance with law in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests, as if this act had not been passed.

"Sec. 5. That sections 2289 and 2290, in said chapter numbered 5 of the Revised Statutes, be, and the same are hereby, amended, so that they shall read as follows:

"Sec. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than 160 acres of land in any State or Territory shall acquire any right under the homestead law. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate 160 acres.

"Sec. 2290. That any person applying to enter land under the preceding section shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person, except himself or herself; and upon filing such affidavit with the register or receiver on payment of \$5 when the entry is not more than 80 acres, and on payment of \$10 when the entry is for more than 80 acres, he or she shall thereupon be permitted to enter the amount of land specified."

"Sec. 6. That section 2301 of the Revised Statutes be amended so as to read as follows:

"Sec. 2301. Nothing in this chapter shall be so construed as to prevent any person who shall hereafter avail himself of the benefits of section 2289 from paying the minimum price for the quantity of land so entered at any time after the expiration of fourteen calendar months from the date of such entry, and obtaining a patent therefor, upon making proof of settlement and of residence and cultivation for such period of fourteen months, and the provision of this section shall apply to lands on the ceded portion of the Sioux reservation, by act approved March 2, 1889, in South Dakota, but shall not relieve said settlers from any payments now required by law."

"Sec. 7. That whenever it shall appear to the Commissioner of the General Land Office that a clerical error has been committed in the entry of any of the public lands, such entry may be suspended, upon proper notification to the claimant, through the local land office, until the error has been corrected; and all entries made under the pre-emption, homestead, desert-land, or timber-culture laws, in which final proof and payment may have been made and certificates issued, and to which there are no adverse claims originating prior to final entry, and which have been sold or encumbered prior to the 1st day of March, 1888, and after final entry, to bona fide purchasers or incumbrancers, for a valuable consideration, shall, unless upon an investigation by a Government agent fraud on the part of the purchaser has been found, be confirmed and patented upon presentation of satisfactory proof to the Land Department of such sale or incumbrance: *Provided*, That after the lapse of two years from the date of the issuance of the receiver's receipt upon the final entry of any tract of land under the homestead, timber-culture, desert-land, or pre-emption laws, or under this act, and when there shall be no pending contest or protest against the validity of such entry, the entryman shall be entitled to a patent conveying the land by him entered, and the same shall be issued to him; but this proviso shall not be construed to require the delay of two years from the date of said entry before the issuing of a patent therefor."

"Sec. 8. That suits by the United States to vacate and annul any patent heretofore issued shall only be brought within five years from the passage of this act, and suits to vacate and annul patents hereafter issued shall only be brought within six years after the date of the issuance of such patents. And in the States of Colorado, Montana, Idaho, North Dakota and South Dakota, Wyoming, and in the district of Alaska and the gold and silver regions of Nevada, and the Territory of Utah, in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon, it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes, and has not been transported out of the same; but nothing herein contained shall apply to operate to enlarge the rights of any railway company to cut timber on the public domain: *Provided*, That the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this section."

"Sec. 9. That hereafter no public lands of the United States, except abandoned military or other reservations, isolated and disconnected fractional tracts authorized to be sold by section 2155 of the Revised Statutes, and mineral and other lands the sale of which at public auction has been authorized by acts of Congress of a special nature having local application, shall be sold at public sale."

"Sec. 10. That nothing in this act shall change, repeal, or modify any agreements or treaties made with any Indian tribes for the disposal of their lands, or of land ceded to the United States to be disposed of for the benefit of such tribes, and the proceeds thereof to be placed in the Treasury of the United States; and the disposition of such lands shall continue in accordance with the provisions of such treaties or agreements, except as provided in section 5 of this act."

"Sec. 11. That until otherwise ordered by Congress lands in Alaska may be entered for town-site purposes, for the several use and benefit of the occupants of such town sites, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, such entries to be made under the provisions of section 2387 of the Revised Statutes as near as may be; and when such entries shall have been made the Secretary of the Interior shall provide by regulation for the proper execution of the trust in favor of the inhabitants of the town site, including the survey of the lands into lots, according to the spirit and intent of said section 2387 of the Revised Statutes, whereby the same results would be reached as though the entry had been made by a county judge and the disposal of the lots in such town site and the proceeds of the sale thereof had been prescribed by the legislative authority of a State or Territory: *Provided*, That no more than 640 acres shall be embraced in one town-site entry."

"Sec. 12. That any citizen of the United States twenty-one years of age, and any association of such citizens, and any corporation incorporated under the laws of the United States or of any State or Territory of the United States now authorized by law to hold lands in the Territories now or hereafter in possession of and occupying public lands in Alaska for the purpose of trade or manufactures, may purchase not exceeding 160 acres to be taken as near as practicable in a square form, of such land at \$2.50 per acre: *Provided*, That in case more than one person, association, or corporation shall claim the same tract of land the person, association, or corporation having the prior claim by reason of possession and continued occupation shall be entitled to purchase the same; but the entry of no person, association, or corporation shall include improvements made by or in possession of another prior to the passage of this act."

"Sec. 13. That it shall be the duty of any person, association, or corporation entitled to purchase land under this act to make an application to the United States marshal, *ex officio* surveyor general of Alaska, for an estimate of the cost of making a survey of the lands occupied by such person, association, or corporation, and the cost of the clerical work necessary to be done in the office of the said United States marshal, *ex officio* surveyor general; and on the receipt of such estimate from the United States marshal, *ex officio* surveyor general, the said person, association, or corporation shall deposit the amount in a United States de-

pository, as he is required by section numbered 2401, Revised Statutes, relating to deposits for surveys."

"That on the receipt by the United States marshal, *ex officio* surveyor general, of the said certificates of deposit, he shall employ a competent person to make such survey, under such rules and regulations as may be adopted by the Secretary of the Interior, who shall make his return of his field notes and maps to the office of the said United States marshal, *ex officio* surveyor general; and the said United States marshal, *ex officio* surveyor general, shall cause the said field notes and plats of such survey to be examined, and, if correct, approve the same, and shall transmit certified copies of such maps and plats to the office of the Commissioner of the General Land Office."

"That when the said field notes and plats of said survey shall have been approved by the said Commissioner of the General Land Office, he shall notify such person, association, or corporation, who shall then, within six months after such notice, pay to the United States marshal, *ex officio* surveyor general, for such land, and patent shall issue for the same."

"Sec. 14. That none of the provisions of the last two preceding sections of this act shall be so construed as to warrant the sale of any lands belonging to the United States which shall contain coal or the precious metals, or any town site, or which shall be occupied by the United States for public purposes, or which shall be reserved for such purposes, or to which the natives of Alaska have prior rights by virtue of actual occupation, or which shall be selected by the United States Commissioner of Fish and Fisheries on the islands of Kadiak and Afognak for the purpose of establishing fish-culture stations. And all tracts of land not exceeding 640 acres in any one tract now occupied as missionary stations in said district of Alaska are hereby excepted from the operation of the last three preceding sections of this act. No portion of the islands of the Pribylov Group or the seal islands of Alaska shall be subject to sale under this act; and the United States reserves, and there shall be reserved in all patents issued under the provisions of the last two preceding sections the right of the United States to regulate the taking of salmon and to do all things necessary to protect and prevent the destruction of salmon in all the waters of the lands granted frequented by salmon."

"Sec. 15. That until otherwise provided by law the body of lands known as Annette Islands, situated in Alexander Archipelago in Southeastern Alaska, on the north side of Dixon's entrance, be, and the same is hereby, set apart as a reservation for the use of the Metlakahla Indians, and those people known as Metlakahlans who have recently emigrated from British Columbia to Alaska, and such other Alaskan natives as may join them, to be held and used by them in common, under such rules and regulations and subject to such restrictions as may be prescribed from time to time by the Secretary of the Interior."

"Sec. 16. That town-site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by any such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof, and when entry has been made or patent issued for such town sites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein and the surface ground appertaining thereto: *Provided*, That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant."

"Sec. 17. That reservoir sites located or selected and to be located and selected under the provisions of 'An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1889, and for other purposes,' and amendments thereto, shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs; excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs, and that the provision of 'An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1891, and for other purposes,' which reads as follows, namely: 'No person who shall, after the passage of this act, enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws, shall be permitted to acquire title to more than 320 acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands, and not to include lands entered or sought to be entered under mineral-land laws."

"Sec. 18. That the right of way through the public lands and reservations of the United States is hereby granted to any canal or ditch company formed for the purpose of irrigation and duly organized under the laws of any State or Territory, which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of the ground occupied by the water of the reservoir, and of the canal and its laterals, and 50 feet on each side of the marginal limits thereof; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: *Provided*, That no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation; and all maps of location shall be subject to the approval of the Department of the Government having jurisdiction of such reservation, and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories."

"Sec. 19. That any canal or ditch company desiring to secure the benefits of this act shall, within twelve months after the location of 10 miles of its canal, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such rights of way shall pass shall be disposed of subject to such right of way. Whenever any person or corporation, in the construction of any canal, ditch, or reservoir, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage."

"Sec. 20. That the provisions of this act shall apply to all canals, ditches, or reservoirs, heretofore or hereafter constructed, whether constructed by corporations, individuals, or association of individuals, on the filing of the certificates and maps herein provided for. If such ditch, canal, or reservoir has been or shall be constructed by an individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior, and with the register of the land office where said land is located, a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats heretofore filed shall have the benefits of this act from the date of their filing, as though filed under it: *Provided*, That if any section of said canal, or ditch, shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture."

"Sec. 21. That nothing in this act shall authorize such canal or ditch company

to occupy such right of way except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch.

"SEC. 22. That the section of land reserved for the benefit of the Dakota Central Railroad Company on the west bank of the Missouri River, at the mouth of Bad River, as provided by section 16 of "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations, and to secure the relinquishment of the Indian title to the remainder, and for other purposes," approved March 2, 1889, shall be subject to entry under the town-site law only.

"SEC. 23. That in all cases where second entries of land on the Osage Indian trust and diminished reserve lands in Kansas, to which at the time there were no adverse claims, have been made, and the law complied with as to residence and improvement, said entries be, and the same are hereby, confirmed, and in all cases where persons were actual settlers and residing upon their claims upon said Osage Indian trust and diminished reserve lands in the State of Kansas on the 9th day of May, 1872, and who have made subsequent pre-emption entries either upon public or upon said Osage Indian trust and diminished reserve lands, upon which there were no legal prior adverse claims at the time, and the law complied with as to settlement, said subsequent entries be, and the same are hereby, confirmed.

"SEC. 24. That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations; and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof."

L. E. PAYSON,
J. A. PICKLER,
WM. S. HOLMAN,

Managers on the part of the House.

P. B. PLUMB,
H. F. PETTIGREW,
E. C. WALTHALL,

Managers on the part of the Senate.

IN THE SENATE OF THE UNITED STATES, February 28, 1891.

Resolved, That the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 7251) to repeal timber-culture laws, and for other purposes.

Attest:

ANSON G. MCCOOK, *Secretary.*

Before the Clerk began reading the bill,

Mr. PAYSON said: I ask unanimous consent that the statement which accompanies this report may be read, with a view to asking the House to dispense with the formal reading of the bill. It is voluminous, and I supplement this with the statement that the report is unanimously made by the conferees in both Houses. The gentleman from Indiana [Mr. HOLMAN] represented the other side of the House, and the bill covers a variety of propositions, all of which have been favorably reported, and which, with but a single exception, have passed the House on more than one occasion. I ask unanimous consent that the statement may be first read, with the view to then asking unanimous consent for dispensing with the formal reading of the bill.

Mr. BOUTELLE. You are making a good statement now.

The SPEAKER. Without objection the Clerk will read the statement.

The Clerk read as follows.

Statement to accompany report of conference committee on bill H. R. 7251.

This bill as now reported, first, repeals the timber-culture act, but saves the rights of all existing entries, and gives a right of commutation to those who have for four years in good faith tried to comply, at \$1.25 per acre.

Section 2 provides modification of the desert-land act, providing fully for actual reclamation of the land entered, and preventing speculative accumulation of land, with a saving of all rights under existing entries.

Section 3 enlarges section 2388, Revised Statutes, by including reservoirs or ditches for irrigating purposes.

Section 4 repeals the pre-emption laws, with a modification of the homestead law, and with provisions more strict as to proofs at entry and all final proofs, extending the commutation from six to fourteen months.

Sections 7 and 8 provide details as to final action in the Interior Department on final entries, and provide limitations as to contests, and suits to cancel patents, fixing the latter at five years as to patents now issued and six years as to future ones, and provisions as to timber trespasses.

Section 9 prohibits offering of public lands at public sale hereafter, thus preventing private or cash entries.

Sections 10 to 17 relate to lands in Alaska, for their acquisition for manufacturing and commercial purposes and for town sites.

Section 17 allows mineral entries, in addition to the maximum allowance of 320 acres allowed by existing law.

Sections 18, 19, 20, and 21 relate to ditches and reservoirs and provide for their construction.

Section 23 cures defects in the titles of settlers on certain former Indian lands caused by different rulings of the Department of the Interior.

Section 24 authorizes the President to set apart trust reserves where, to preserve timber, he shall deem it advisable.

Mr. PAYSON. I now ask unanimous consent to dispense with the reading of the long bill.

Mr. DUNNELL. I desire to ask the gentleman from Illinois a question.

The SPEAKER. Is there objection? The Chair will put the request for unanimous consent.

Mr. PETERS. Before I consent to waive the reading, there are one or two sections about which I would like to have some information, either from the reading of the sections or a statement of them by the gentleman from Illinois.

Mr. PAYSON. I should be very glad to make a statement of any point.

The SPEAKER. The Chair will first put the question.

Mr. DUNNELL. The portion of the statement seemingly read that this bill repeals the pre-emption act?

Mr. PAYSON. It does.

Mr. DUNNELL. I was not aware that the pre-emption act had been repealed by any affirmative original act passed this Congress.

Mr. PAYSON. On three different occasions, and by overwhelming votes, the pre-emption law has been repealed.

Mr. DUNNELL. This session?

Mr. PAYSON. Not this session.

Mr. PETERS. But I would state to the gentleman that while it passed by an overwhelming vote, it passed in the face of a determined opposition.

Mr. PAYSON. It passed in the face of a vigorous opposition by a small but responsible minority. [Laughter.]

Mr. DUNNELL. It would appear from the title of this bill that it was to repeal the timber-culture act; but it appears that every kind of legislation imaginable finds itself included in this omnibus bill.

Mr. PAYSON. A good deal is found in there. That is true.

Mr. DUNNELL. Irrigation, and desert land, the reservoir system, tree culture, and pre-emption.

Mr. PAYSON. I would be glad to answer any question that may be asked about it.

Mr. DUNNELL. There is also one other clause which appears to be new. It seems to double the amount of mineral lands that citizens heretofore have been able to acquire.

Mr. PAYSON. It does not change existing law as to mineral lands in any way whatever; and in order to make myself clear, I will say that there has been no limitation in the public lands.

I ask the gentleman from Iowa [Mr. KERR] to let me finish answering the gentleman from Minnesota.

Mr. KERR, of Iowa. I had not said anything to the gentleman.

Mr. PAYSON. No, the gentleman had not said anything; but with the use of that index finger of his he indicated that he was about to ask me a question. [Laughter.]

Mr. STRUBLE. And he looked so full of question.

Mr. PAYSON. I was saying, Mr. Speaker, to the gentleman from Minnesota that there had not been in the public-land laws any limitation upon the mineral land that could be acquired by a citizen of the United States. A man may make just as many entries as he chooses, so that he complies with the law, and provided that he put improvements on it as provided by law.

Mr. DUNNELL. As the clause read, the amount that might be taken had been increased from 160 acres.

Mr. PAYSON. The gentleman misunderstood the reading.

Mr. LA FOLLETTE. I would ask the gentleman what limitation is made as to the commutation under the homestead law?

Mr. PAYSON. The period is extended from six to fourteen months, and for this reason: It is desired to assist settlers where the law is attempted to be carried out in good faith. The commutation feature gives them six months. That does not include an entire agricultural year. Therefore, the committee of conference determined to fix a period at the shortest time possible, including two-crop years, and therefore we put it at fourteen months.

Mr. DUNNELL. Let me ask the gentleman if he proposes to amend the title of the bill?

Mr. PAYSON. No, sir. "For other purposes" covers a great deal.

Mr. DUNNELL. It does in this case.

Mr. KERR, of Iowa. The answer the gentleman has already given covers most all the questions I desired to ask. I understand it does not affect persons who have pre-empted and who have not completed their payments.

Mr. PAYSON. No; it saves every right of every settler entire.

Mr. TOWNSEND, of Colorado. I would like to know if those who have filed timber-culture claims can perfect their title under this act.

Mr. PAYSON. Mr. Speaker, the provisions of this bill are these: Any citizens who have made timber-culture claims have one of two alternatives. They may go on and perfect their claim under the timber-culture act and get patents; if they have in good faith attempted for four years to comply with the act and been prevented for any reason, they may be permitted to commute and get their grants exactly as we passed it in the House when that bill was under consideration.

Mr. ADAMS. If my colleague will permit me, he said all the substantial propositions in the conference report were in the bill as it passed the House save one. What was that one?

Mr. PAYSON. That is the forestry reservation. We have made a provision in this bill authorizing the President of the United States, whenever in his judgment he deems it proper to do so, to make a reservation of the timberlands, principally applying it to the watersheds of the West, so that the water supply in that country may be preserved from entry and until legislation shall have passed Congress whereby these lands shall be opened.

Mr. ADAMS. Would that include the reservoirs and country tributary?

Mr. PAYSON. Exactly.

Mr. LIND. I would like to ask the gentleman if it would not be well to have this conference report printed in the RECORD, so as to give all members an opportunity to see it, read it, and consider it, and then have it considered in the House next Monday.

Mr. PAYSON. I think not, Mr. Speaker, because there is no need

of it. I will state that gentlemen living in States containing public lands are familiar with every proposition in the bill, and they have been debated and discussed during the last six or eight years almost *ad infinitum*. I will assure gentlemen and the House there is not a single proposition in the bill in regard to the land laws but has been debated here, except the question of forestry.

Mr. PETERS. I would like to ask the gentleman from Illinois a question. Is this a unanimous report from the committee of conference?

Mr. PAYSON. It is a unanimous report made by the conferees.

Mr. McRAE. I would state that my colleague on the committee is mistaken in the answer he made to the gentleman from Minnesota that the repeal of the pre-emption law had not passed this House at this session. It passed as an amendment to this bill.

Mr. PAYSON. That is so. I had forgotten that when I replied to the gentlemen from Minnesota that the repeal of the pre-emption law had not passed this Congress. I remember now that amendment was moved upon this bill by the gentleman from Arkansas when it was considered at the last session of this Congress, and that it passed with substantial unanimity.

Mr. LA FOLLETTE. Does this bill make any change in regard to the ceded Sioux lands of the Indian reservation?

Mr. PAYSON. It does.

Mr. LA FOLLETTE. What is that change?

Mr. PAYSON. Under the act of March 3, 1889, the provision was that it should be taken under the homestead law only, and that section 2301, the commutation section, should not apply thereto, but that the same price should be paid that we paid the Indians for the land. The change in this bill is that the commutation feature is made uniform, and the settler upon the Sioux reservation has the same right under this bill that he has under the general law in that regard; but this does not apply to any other Indian lands except what is known as the ceded Sioux reservation on the west side of the Missouri River, in Dakota.

Mr. HOLMAN. And it was distinctly understood that it should not be taken as a precedent.

Mr. PAYSON. Yes, it was understood, as is suggested by my distinguished colleague in the conference [Mr. HOLMAN], that this principle should not be understood to apply to any other Indian reservation, but only to this one from the necessities of the case.

Mr. STONE, of Missouri. I desire to ask the gentleman from Illinois what limitation, if any, is fixed by this conference bill on the right to assign desert-land entries.

Mr. PAYSON. The provision in the bill is that there shall not be any assignment whatever, so that any one person shall acquire in any way more than 320 acres.

Mr. HOLMAN. There is provision for assignment, but not to an amount more than 320 acres.

Mr. PAYSON. I yield now, Mr. Speaker, to the gentleman from Arkansas [Mr. McRAE], who desires to make a statement.

Mr. BUCHANAN, of New Jersey. Before the gentleman from Illinois yields I wish to ask him a question. As I understand, this bill provides for taking of certain lands out from the operation of the public-land laws of the country. Now, how are those lands to be acquired by individuals under this bill?

Mr. PAYSON. Under this bill public lands that are susceptible of cultivation can not be acquired except in one of two ways: either under the homestead law by an actual settler, or under the modified desert-land law upon actual reclamation. There must be either actual reclamation or actual settlement by a homesteader upon the public land.

Mr. BUCHANAN, of New Jersey. Is it possible under the operation of this bill for one person to acquire a large tract?

Mr. PAYSON. It is impossible for any one citizen to acquire more than 320 acres of cultivable lands. Mineral lands are excepted from this.

Mr. McRAE rose.

The SPEAKER. How much time does the gentleman from Illinois yield to the gentleman from Arkansas?

Mr. PAYSON. I yield whatever time the gentleman from Arkansas desires.

Mr. McRAE. Mr. Speaker, I heartily agree to so much of the conference bill as provides for the repeal of the timber-culture and pre-emption laws and the amendment of the desert-land law. I have, during my service in Congress, labored for such a result, and this bill contains many provisions identical with those of bills introduced by me. There is one section of the bill reported that I desire, however, to criticize, and would like to strike out if I could. I mean section 24, relating to forest reserves. That part of the bill relating to Alaska and the arid section of our country I do not pretend to fully understand, because I am not familiar with the conditions sought to be reached by it. This is an experiment which may prove beneficial to that part of our country, and may assist in its development, or it may not; but I do believe, Mr. Speaker, that the power granted to the President by section 24 is an extraordinary and dangerous power to grant over the public domain, and, if I could, I would move to amend by striking out that section. I would cordially vote to strike it out, and am sorry that it is in the bill.

Mr. HOLMAN. What section?

Mr. McRAE. Section 24. I do not believe, Mr. Speaker, in giving to any officer, either the head of a Department or the President, power to withdraw from settlement at will any part of the public lands that are fit for agricultural purposes and not required for military purposes. There is no limitation upon this extraordinary power if the land be covered with timber. If the conference committee had provided that lands covered with timber and not fit for agricultural purposes might be withdrawn in this way no trouble could have arisen; but such is not the case.

If this provision is intended, as I am informed it is, for some particular part of our country in the Northwest, some great watershed, as my friend from Illinois [Mr. PAYSON], describes and the power is exercised only there, no great harm may come from it. But if this power here granted to the President is ever exercised by him, as I think it may be, to the extent of withdrawing from homestead settlement lands that are fit for cultivation—such as the irrigation withdrawal of two years ago—then we shall hear from it in the future. The people of the country who are without homes and otherwise qualified have a right to the public lands. If the lands are fit for agricultural purposes they should never be withdrawn from such settlement. I will not say that, even with this section in it, the bill ought not to pass. There are so many good features in it that I am constrained to believe it ought to become a law, and let us take the chances of repealing this section in the future if the power is abused.

Mr. HOLMAN. My friend will remember that the bill in regard to the withdrawal of forest land is exactly the same as the bill passed last session, after very careful consideration.

Mr. McRAE. That may be; but then, as now, I opposed and will continue to oppose granting any such power to anyone over the public domain. I am perfectly willing, and insist, that the lands shall be irrevocably dedicated and sacredly held for homestead settlers. I do not want any power lodged anywhere to question the right of the humblest citizen to make his location and settlement at any time upon any part of the unappropriated public lands.

Mr. PICKLER. I wish to ask the gentleman whether he does not consider that there is a necessity for withdrawing or holding these timber lands by some means or other.

Mr. McRAE. Not in my section of the country, nor in any public-land State that I am familiar with.

Mr. PICKLER. Not in your section, perhaps, but there is in ours. Mr. McRAE. Then it should only be done where it is needed. I yield back the floor to the gentleman from Illinois [Mr. PAYSON].

Mr. PAYSON. A single word in reply to the observations made by the gentleman from Arkansas [Mr. McRAE]. While I agree with him that the right of a settler to make a home upon the public domain should be carefully cherished by the Government, still I insist there are sections of the country now covered with timber which is being rapidly diminished, partly by fires arising from carelessness, partly by being cut to be used as lumber, so that in the extreme Northwest the water supply is in danger of being largely diminished if not absolutely destroyed by the destruction of timber on the great watersheds; and the right of a private citizen to make a home upon the public domain ought as a matter of public policy to be subordinated to the larger and the broader principle of conserving the general good by preserving the watersheds of the Union, which we who have given that subject investigation know to be the important question everywhere. There has never been, so far as I know, on the part of any man who has given this subject examination, a single objection to the position taken by the conferees on this bill upon that question.

Mr. DUNNELL addressed the Chair.

Mr. PAYSON. Reserving my right to the floor, I yield to the gentleman from Minnesota [Mr. DUNNELL].

Mr. DUNNELL. I heartily concur in the suggestion that this report of the committee of conference and the bill as agreed upon by the committee should appear in the RECORD of to-morrow morning, so that the members of the House may see the bill which we are asked to pass by the adoption of this report. This bill has never been printed. It is nowhere to be found. Not a member of this House has ever seen the bill that it is proposed to pass here. We have had under consideration heretofore the nucleus of the present measure; but there have been added to it various propositions, and the outcome, the present make-up has never been seen by any member of this House.

This is a monstrous measure; I do not mean by this expression that it is necessarily wrong, but simply that it is an immense proposition. It covers every question touching the public lands. This is a vast power to give to the President—the power to reserve any quantity of land he may deem proper, even for the beneficial purposes indicated in the bill.

But, Mr. Chairman, I do object to the passage of a bill that has never yet been printed, that has never yet been seen, that has never yet been read to this House, that has never yet been debated as an entirety. The gentleman from Illinois [Mr. PAYSON] talks about the various provisions of this bill; but how they come together, whether inharmoniously or harmoniously, no man in this House knows. And I protest against the passage of a bill of such magnitude in this manner. Let it be printed in the RECORD. Let members of the House see the relation of the different parts of this bill to each other.

There seems to be a strange desire on the part of certain gentlemen to rush this bill through to-night. There are certain men who seem intent upon the passage of the bill to-night, as though it may not pass unless it passes to-night. Now, let the bill be seen as it will appear when placed upon the statute book. I can not tell what it is. There is not a man in this House who can recite the provisions of the bill, unless the gentleman from Illinois may be able to do so. There is no other man who can recite the different provisions and conditions that appear in this bill.

Mr. HOLMAN. Oh, yes; several.

Mr. DUNNELL. Several. I say it is the privilege of the House and every member of the House to see the exact bill upon which we are called to vote. We ought not to be asked to pass a measure of this magnitude upon a report of a committee of conference and the statement of the chairman of that committee, "Oh, this is all right, gentlemen; this is all fair; we have all agreed upon it, although you all do not know anything about it." That is the proposition.

Mr. HOLMAN. Would not the gentleman be satisfied with the reading of the bill this evening?

Mr. DUNNELL. I want to hear this bill read.

Mr. HOLMAN. I think myself it ought to be read.

Mr. DUNNELL. Well, there has been a disposition to keep its reading from the House.

Mr. PAYSON. Not at all. I appeal to the gentleman from Minnesota to know why it is that he sees fit to indulge in this kind of innuendo against those who have this bill in charge. There has never been an attempt on the part of anybody to prevent this bill from being read.

I have simply asked unanimous consent to dispense with the reading of this long bill, thinking that it might save the consumption of a great deal of time; and I have stood here for nearly an hour under a laborious cross-examination, largely indulged in by the gentleman from Minnesota, to have him conclude that there seems to be a strange eagerness on the part of somebody to pass the bill. I am almost expecting the gentleman to intimate that there has been an immense lobby around the corridors here in order to force the passage of this bill.

The propositions in the bill, Mr. Speaker, are as old as the question of land reform. There has never been an hour during the last ten years when the principal propositions in this bill have not been the subject of active and earnest discussion in this House. And if the gentleman from Minnesota has sat here during even this session of Congress, and is ignorant of the provisions of this bill, the gentleman has not yet got out of the primary school of ordinary statesmanship. [Laughter.]

Mr. HOLMAN. Let the bill be read.

Mr. PAYSON. Well, let it be read. I ask for the reading of the bill. I am content, if gentlemen desire—

Mr. DUNNELL. Mr. Speaker, I ask to be heard for a moment.

Mr. PAYSON. I have not yet yielded the floor, but if the gentleman from Minnesota wants time I will yield to him.

Mr. DUNNELL. I wish to occupy a few moments as soon as the gentleman from Illinois concludes.

Mr. PAYSON. I have no objection to the bill being printed in the RECORD, if that is the desire of the House, with the understanding that it shall come up without prejudice the first thing Monday morning.

Mr. HOLMAN. I hope that will be done.

Mr. PETERS. That is equivalent to a defeat of the bill.

Mr. PAYSON. That is precisely what I fear myself, and for that reason preferred to have immediate action taken upon it.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be printed in the RECORD, and its consideration be postponed until Monday morning.

Mr. PAYSON. The gentleman from Kansas desires to be heard, and I will yield to him.

Mr. DUNNELL. I desire to make an observation in reply to the gentleman from Illinois, and shall claim recognition before we proceed much further.

Mr. PAYSON. I yield to the gentleman from Kansas.

Mr. PETERS. I wanted to simply say that this is a very considerable bill—one that would require considerable time at the hands of the Executive before he would consent to sign it, and that in all probability on Monday morning next the House will be engaged in the consideration of conference reports on appropriation bills that will entirely crowd out the consideration of this measure.

There are many valuable features in this bill that I would like to see become law. In my judgment, therefore, if that course is taken, this bill will not become a law at this session.

And, Mr. Speaker, while on the floor I want to say a word to corroborate what the gentleman from Illinois has already said—that all of the legislation in this bill, both in regard to the pre-emption law and the timber-culture law, as well as the desert-land act, all have been discussed in this House time and again. I have myself, in times past, been unalterably opposed to the repeal of the pre-emption law, and have stood on the floor of the House and have availed myself of all of the means known to me in a parliamentary way, by obstructing and objecting to the passage of the bills repealing the pre-emption and tim-

ber-culture acts, to defeat their consideration. But time has to some extent modified my views, and I am not now unalterably opposed to the repeal of either. I believe that the time has come when we can dispense with both of these laws.

But to the point. All of these features in this bill have been time and again discussed on the floor of the House, and have been passed, and favored by men with the most vigorous arguments they were capable of producing; and the provisions incorporated in the present bill have been passed upon on the floor of the House on many occasions. But as to this bill and the circumstances in which we are placed, I repeat, if the measure can not be considered to-night I believe it will not become a law during this Congress—

Mr. HOLMAN. Oh, yes. [Cries of "Vote!" "Vote!"]

Mr. PETERS. And I would like to have it considered, even if it takes all night.

Mr. DUNNELL. Mr. Speaker, I desire to add a few words to what I have already said.

The gentleman from Illinois [Mr. PAYSON], as well as other members who have served with me, knows very well that I am not an obstructionist; that I occupy but very little time on the floor of the House. My attention was called to this bill, and I have desired to know what its contents were. The gentleman says that I am but a primary student—

Mr. STRUBLE. Oh, no; he said "if."

Mr. DUNNELL. Well, I served four years on the Committee on the Public Lands before the gentleman from Illinois struck Congress. [Laughter.] I have some acquaintance with the public lands of this country. I reported the bill which was passed and became a law—the tree-culture act. I had somewhat to do as a representative of a land State some sixteen, eighteen, or twenty years ago in this House with this question; and I simply desired that we may have before us, not upon the *ipse dixit* of the chairman of this committee, who has grown proud because recognized to do something every day touching the public lands [laughter], not upon his statement alone, but that we might understandingly act, and let the bill be read *in extenso* to-night and go into the RECORD, to let us see how the reading begins, how it goes on throughout, and how it ends, so we may know how many links are in the chain and how they are fastened together.

It is an immense provision. The gentleman from Kansas is no more in favor of the general features contained in the bill than I am; but to attempt to say to the House in a waving style that we must swallow the whole bill simply on the report of the committee, when the bill has never been seen by mortal eye, never has been printed, has no number, and nowhere exists, is rather a startling demand. Let us have the bill as they now propose it to the House.

Mr. PICKLER. It has been printed during the whole session just about as it is now.

Mr. DUNNELL. Not "just about."

Mr. PICKLER. Yes; it has.

Mr. DUNNELL. Two sections have been added.

Mr. PICKLER. Just about as it is now it has been printed before.

Mr. BOUTELLE. The "just about" is the thing that we want to see. Let us have the "just about" printed. [Laughter.]

Mr. PAYSON. Mr. Speaker, no one regrets more than I do the apparent desire on the part of the gentleman from Minnesota [Mr. DUNNELL] to indulge in personal references in this discussion. I concede that the gentleman from Minnesota has been in public life much longer than I have been. I concede that he knows more and has broader information upon these questions than I, in so far as he has examined them. May I say a word in this connection personal to myself, and once for all? The gentleman from Minnesota [Mr. DUNNELL] refers, and I hope approvingly, to the fact that I have a little pride in occasionally asking the attention of the House to matters connected with the public-land system.

May I be permitted here to say, Mr. Speaker, that this act which I am now engaged in is perhaps the last one I shall ever be connected with in the public service? I have been a member of Congress for ten years. When I look back over the record I have made in this body in what I think has been of public good, no act of mine gives me the satisfaction that the act I am now performing does. Ten years of continuous service has resulted in placing upon the statute books of this nation, to endure, I trust, as long as the nation shall endure, these two propositions, that not an acre of the public domain shall be taken by anybody except as the home of the poor man or for reclamation where now there is only a desert. [Applause.]

I have labored for this termination in season and out. Doubtless many acts of mine have seemed to be out of season; but with the distinguished gentleman from Indiana [Mr. HOLMAN] as an earnest, laborious coadjutor, during all these years we have endeavored, as he knows and will bear witness, night after night, as well as day after day, to mature a bill based upon those two propositions, homes for the poor and the reclamation of the desert, as the only legislation upon the statute books for the disposition of the public lands. I will say to the gentleman from Minnesota that I refer to this with great pride.

As I have said, this is perhaps the last act that I shall ever perform in public life with reference to public matters, and I deem it a fit-

ting termination, an honor to which I shall revert with pleasure, that I am permitted by the partiality of committee assignment to take the lead in a reform which terminates with the land legislation that this House is now considering. It will be submitted to the considerate judgment of this House and the larger judgment of the people of the United States and will meet with their approval.

The gentleman from Minnesota [Mr. DUNNELL] has referred to the fact that he is the father of the timber-culture law. I agree with him. I am not ignorant of his connection with it. He believed then, as he doubtless does now, that it is a beneficent measure; but is it not barely possible, Mr. Speaker—I address the same inquiry to the gentleman from Minnesota that he addressed to me—that having been identified with that measure which promised such beneficent results then, but which, in the judgment of gentlemen connected with the public lands, has not fulfilled those promises with full fruition—is it not possible that because at this time the gentleman from Minnesota sees the measure which he favored in earlier life, and which was a pet measure of legislation with him, is to be repealed, and that the judgment of the House of Representatives will be, as the judgment of the country has been, that it has not met the promises which were made with reference to it—that perchance he may feel a degree of sorrow with reference to it which is the excuse for the language he has used in this connection here to-night?

I repeat now, Mr. Speaker, with reference to the provisions of this bill, as has been said by the gentleman from South Dakota [Mr. PICKLER], with a single exception there is not a provision in this bill but has been clipped with the scissors from printed bills that have been furnished to every member of this House and furnished year after year to the members of every Congress. There is not a provision in the bill in the main but that has passed this House on more than one occasion, and always by overwhelming majorities.

Mr. MCKENNA. Will the gentleman allow me to ask him a question?

Mr. PAYSON. With pleasure.

Mr. MCKENNA. I wish to ask the gentleman if there has been reserved in the bill which he and his fellow-conferrees have reported to the House a preservation of that provision in the land laws that have passed this House for a public road on every section line.

Mr. PAYSON. It has not been retained in the bill, and for the reason—

Mr. MCKENNA. Why not?

Mr. PAYSON. The gentleman from Indiana [Mr. HOLMAN] and myself proposed that very measure in the conference committee. It was earnestly opposed by the Senator from South Dakota [Mr. PETTIGREW], and, though not as earnestly, by the Senator from Kansas [Mr. PLUMB], both of whom agreed that attempts to incorporate that would be a failure for reasons which they stated, and which were deemed persuasive and afterwards conclusive.

Mr. MCKENNA. Now, if the gentleman will yield to me for a minute—I have had some experience in this matter—

Mr. PAYSON. I was about to say, if the gentleman will allow me to conclude, when I have said that these provisions have been found in other bills, I do not mean to be understood as saying that every proposition which has been ingrafted upon this bill has been preserved in it in all of its details. There has been a modification in this bill of some propositions. The provision which the gentleman refers to was not incorporated in this bill and some other matters of detail have not been incorporated. But I have stated the two great propositions upon which this bill is based. There was a proposition made by the gentleman himself, I think in, the Forty-ninth Congress, giving the holder of a desert-land claim the right to mortgage his land to secure money to reclaim or improve it.

That has been omitted from this bill because of the disbelief in the policy which was involved in it. The great question and all of the questions of detail have been involved here. One other question I desire to call the attention of the gentleman to if he will permit me. As to the matter of forestry reservations, no occasion can ever present itself, Mr. Speaker, in my judgment, when a President of the United States will too largely exercise the discretion in that regard; but wherever there is an opportunity that it should be exercised, public policy demands that it should rest somewhere rather than be left to the slow action of Congress; and if the President were to exercise this discretion in a way that the representatives of the people will not approve and justify, it is easy to pass either a joint resolution or a bill to open up to settlement any forestry lands which the President has reserved, and its timber on the headwaters of the rivers, and the land can then be subject to original settlement.

Now I yield five minutes to the gentleman from New York [Mr. FLOWER].

Mr. FLOWER. Mr. Speaker, this question as to the preservation of the public lands and their timber on the headwaters of our navigable rivers and of our great streams is one which will meet Western men all over, as it is a very important one to them. It has already met them in the case of the headwaters of the Mississippi, which rise about 600 feet above the level of the ocean. The more you preserve the forests there, the easier you will be able to prevent that stream from overflowing at its mouth and along its banks.

The more you preserve the timber at the headwaters of the Missouri, which rises in the Yellowstone Park, 8,200 feet above the level of the ocean, the better you will be able to restrain the floods at its mouth and along its banks, and the better you will be able to protect the property of the people living in its fertile valleys. The more carefully you preserve the timber on the headwaters of the Arkansas, which rises 10,500 feet, or nearly 2 miles above the level of the ocean, the better you will protect the property of those living along its banks, keep it within its channel, and the better, too, will it be for the people in Louisiana and those to whom you have usually voted as much as \$100,000 a year to supply with seed and food to keep them from suffering.

The more you preserve the timber at the headwaters of the South Platte, and on the other side of the Rocky Mountains, of the Humboldt and of the Columbia Rivers, the better it will be for that whole country. These streams some day or other will be diverted from their beds for irrigation purposes, and will make fertile the lands in the Rockies and the Nevadas, besides which, it will prevent a great deal of this suffering from overflows.

The more careful the preservation of the timber at the fountain heads of the stream the better it will be for the West and South and for the people who live in the valleys through which these great rivers flow. We of the East suffer from the manner in which the country has been denuded of its timber. For want of forests the lands are drained into the rivers immediately after rains, and in the summer they are dried up. The same is true in Mexico. Nearly all the timber is cut there. In the rainy season the lands empty the water into the river beds immediately, causing floods, and of course they rapidly empty.

The Government of Germany requires every citizen who cuts a tree to at least plant another in its place the same year, which, in my judgment, if it does not increase the rainfall, at least preserves the moisture. Now, Mr. Speaker, I think that the man who cuts trees on the headwaters of these streams in such a way as to seriously diminish the timber commits a crime against the Western farmer. For these reasons, Mr. Speaker, I favor a proposition which will prevent the cutting of timber, and therefore am in favor of this proposition.

Mr. PAYSON. Mr. Speaker, I will move the previous question on the adoption of the report; and will say if it is desired by any considerable number of gentlemen about me that the previous question shall be considered as ordered, I will ask that the bill and report be printed and go over.

Mr. HOLMAN. I insist on it going over.

Mr. BUCHANAN, of New Jersey. Is there any provision in this bill abrogating the present law with reference to alien ownership of land?

Mr. PAYSON. No reference is made to that whatever, because that is existing law.

Mr. MANSUR. I would be glad if the gentleman stated something concerning Alaska to the House.

The SPEAKER. The gentleman from Illinois has demanded the previous question. Unanimous consent has not been given to omitting the reading of the bill. The Chair understands the gentleman from Illinois to ask that the previous question may be considered as ordered and that the bill may be printed in the RECORD.

Mr. PAYSON. I will make it in another form. I will ask unanimous consent to dispense with the reading of the bill; and to proceed in an orderly manner I will then submit the other statements I have made. As that has not been granted, I ask unanimous consent to dispense with the reading of the bill.

The SPEAKER. The gentleman from Illinois asks unanimous consent to dispense with the reading of the bill, that the previous question may be considered as ordered, that the bill and report be printed in the RECORD, to be called up by the gentleman on Monday. Is there objection?

Mr. WILSON, of Washington. A parliamentary inquiry. Will the gentleman from Illinois have the right to call it up?

The SPEAKER. The gentleman will have the right to call up the question. Being on the adoption of the conference report, it is privileged business.

HAWAIIAN TREATY.

Mr. MCKINLEY. Mr. Speaker, I call up for consideration the bill (H. R. 12333) relating to the treaty of reciprocity of the Hawaiian Islands.

Mr. Speaker, this bill would go to the Committee of the Whole on the state of the Union under the rule, but I ask unanimous consent that it be considered in the House.

There was no objection, and it was so ordered.

Mr. MCKINLEY. I send up the report to be read at the Clerk's desk.

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

The Committee on Ways and Means, to whom was referred House bill 12333, submit the following report:

The purpose of this bill is to provide that the commercial reciprocity treaty with the King of the Hawaiian Islands shall not be impaired by the act approved October 1, 1896, entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes."

It is believed in some quarters that the act alluded to may abrogate the Hawaiian treaty. There are special reasons for the maintenance of the treaty at this time.

Under the terms of a convention between the United States and the Hawaiian

Islands, ratified June 3, 1887, an important concession was made to the United States by which this Government was granted the exclusive right to enter the harbor of the Pearl River in the island of Oahu and to establish and maintain there a coaling and repair station. It is believed to be of the highest importance to the commercial and other interests of the United States that this concession should be retained. If, as it is feared, the treaty is abrogated by the act of October 1, 1890, this concession of course is terminated. This matter is discussed in the President's last annual message to Congress, and the recommendation made that early action be taken by Congress to declare that the treaty shall not be impaired by the act of October 1, 1890.

Your committee recommend the passage of the bill.

Mr. ROGERS. I ask the gentleman from Ohio [Mr. MCKINLEY] whether he can not accept an amendment to this bill repealing the McKinley bill. [Laughter.]

Mr. MCKINLEY. I am sorry to say I can not.

Mr. BRECKINRIDGE, of Kentucky. I have no doubt the gentleman says that sincerely, in view of the effect of the McKinley bill upon the country.

Mr. MCKINLEY. The effect of the McKinley bill upon the country has been very favorable up to this time.

Mr. BRECKINRIDGE, of Kentucky. I cordially agree with you, because it has turned out the present Congress and put in a Democratic Congress. [Laughter.]

Mr. MCKINLEY. We are going to the country next time.

Mr. TURNER, of Georgia. If the gentleman from Ohio has any statement to make in relation to this bill, I wish that he would make it at this time.

Mr. MCKINLEY. I have had the report read, which is quite a full statement.

Mr. TURNER, of Georgia. Mr. Speaker, at this late hour, not only of this day but of this Congress, it would be inopportune to enter into any general discussion of the tariff or of the subject of commercial reciprocity. I had intended to submit some general observations especially on the subject of reciprocity from its earliest beginning to the late efforts of the State Department in the South American Republics, but I shall abandon that purpose and submit only a few suggestions as to the impropriety of passing this bill in the shape in which it has been tendered.

In the first place, Mr. Speaker, the bill which my friend from Ohio [Mr. MCKINLEY] has offered and the report by which he supports it assumes that the treaty with the Hawaiian Islands had been repealed by the bill which was approved on the 1st of October last. Do I correctly state the gentleman's view? If I do not I would be glad to be corrected now.

Mr. MCKINLEY. My belief is that it repeals the treaty in part.

Mr. TURNER, of Georgia. And the object of this bill, as it declares on its face, is to repeal that effect of the act of October 1, 1890?

Mr. MCKINLEY. The object is to reinstate the treaty in its fullness.

Mr. TURNER, of Georgia. Now, I respectfully submit to my friend from Ohio and to the House, that if the treaty of 1875 with the King of the Hawaiian Islands, extended afterwards by the treaty of 1884 and proclaimed in 1887, has been repealed by the bill of October 1, 1890—and it has been held in other cases that it is competent for Congress to repeal a treaty—then it is not competent for Congress to re-enact a treaty.

If the treaty is repealed, if the treaty is extinguished by the operation of the McKinley bill, the only way in which that treaty can be reinstated will be by the treaty-making power engaging in a negotiation with the opposite party to the contract. We have no power in this House or in the Senate or in any other branch of the Government, or in all combined, to re-enact a treaty. A treaty is a contract between two nations, and when it has expired or when it has been repealed, one party to the contract can not re-enact it.

Mr. WHEELER, of Alabama. Instead of speaking of the treaty having been repealed, would it not be a more proper expression to say that the bottom has been knocked out of it. [Laughter.]

Mr. TURNER, of Georgia. That phrase may suit my military friend, with whom I have served in other fields, and with whom sometimes I have seen "the bottom knocked out." [Laughter.] When a man has seen a member of Wheeler's cavalry rummaging about in the wake of Sherman's army, foraging for a living, and striking the bottom out of the flour barrel, he has some idea of what the McKinley bill did with this treaty and our business generally. [Laughter.]

I recur to the proposition that if the bill which bears the name of my honored friend from Ohio repealed the Hawaiian treaty, if it terminated and extinguished that international agreement, an act of Congress can not revive it; and there is no lawyer on this floor, I think, who will undertake to say so. That treaty can only be revived in the constitutional method by invoking the exercise of the treaty-making power to enter into a new agreement with the other party to the contract.

Hence I assume that this bill was not drawn by my friend from Ohio with the care with which he usually does these things. If he would not take it as a disparagement of his ability and care, I would say that this bill had its origin in some Executive Department of this Government, and was introduced by him without proper inspection and without due regard to its details.

Mr. CATCHINGS. I would like to ask the gentleman a question.

When a treaty is made it becomes law, does it not, just as much as a statute of the United States enacted by Congress? It has the effect of law. Now, suppose we have passed a law which has repealed a treaty, then if we repeal the repealing act why is not the treaty reinstated as much so as in the case of any other law?

Mr. TURNER, of Georgia. I do not think so. This matter, Mr. Speaker, stands on an entirely different footing. A treaty is a law by virtue of the constitutional provision which makes it law. The Constitution prescribes the manner in which such a law can be made; and when it is repealed it is the same as if it had never existed. If you wish to give it again the force of law you must go through the constitutional process.

Mr. CATCHINGS. It seems to me it might just as well be said that when you have repealed a statute you can not put it again into effect by a repeal of the repealing statute.

Mr. TURNER, of Georgia. My friend is too good a lawyer to insist on any such punctilio as that.

Mr. CATCHINGS. I do not think it is a punctilio.

Mr. TURNER, of Georgia. I have great respect for the learning and ability of my friend, and I feel sure that on reflection he will not insist on that view of the subject.

Now, I do not wish to be technical in this matter. I desire to be fair and candid with my friend from Ohio [Mr. MCKINLEY]. I believe that this act of last October does not have the effect he understands it has in the particular way which he contemplates.

If the McKinley bill has affected the duties levied upon goods imported from the Hawaiian Islands, it is by virtue of that provision of his bill which repealed the statutes which had been enacted by Congress to execute the Hawaiian treaty; and if he would frame this bill so as to re-enact the act of August, 1876, which defines and declares the duties that shall be levied and the exemptions which shall be granted with reference to products of the Hawaiian Islands, then I would say it might accomplish his purpose. But he can not re-enact the treaty in any such way as this.

Mr. DALZELL. Is this really a proposition to enact a law, or is it an act which construes a law already enacted?

Mr. TURNER, of Georgia. My friend from Pennsylvania [Mr. DALZELL] has had great distinction at the bar. I have watched his course here with care, and have admired the accomplishments he has exhibited on other occasions. But he certainly knows that it is not within the competency of Congress to perform that judicial act which belongs to another department of the Government. The act of construing is not a function of Congress. But if the gentleman will look at this bill as framed he will find that in terms it re-enacts that treaty. If he will look at the last clause of it—

Mr. DALZELL. Is it not competent for the legislative department, in advance of any decision by a court, to put a meaning on a law already on the statute book?

Mr. TURNER, of Georgia. It is within the competency of the legislature in enacting a law to declare what certain terms shall mean; it is within the competency of the law-making power to say that this or that shall be done; it speaks in the language of command; but it dare not—it is against public policy if there were no constitutional limitation—undertake to say how the courts shall construe a statute when it has once been enacted into law. So I hope my friend will not insist on any other view of the matter; and if he will examine the statute in question he will find its concluding words are words of enactment.

I desire now to call attention to other features of this matter. There are thirteen islands in this kingdom, which lie off some 2,000 miles from the coast of California. The population of the islands, according to the latest information we have, amounts to about 92,000 persons. There are some 37,000 natives, whereas in 1829 there were 140,000. The native population, therefore, is running down. There are 18,000 Chinamen; there are 8,000 Japanese, 12,000 Portuguese, 3,000 Americans, and the rest are representatives of different nationalities, all aggregating in number the population I have stated.

The aggregate importations into this country from the Hawaiian Islands during the three years of the operation of this treaty have been of such a character that the duties remitted under the operation of the treaty, according to the reports made from the Bureau of Statistics and the Secretary of the Treasury, amounted to over \$43,000,000. And yet all the assessed wealth of the principal islands of that kingdom—all the assessed wealth that amounts to anything, and of which they have furnished us any evidence—amounts to but \$31,000,000 all told.

Hence during the operation of this treaty, and as one of the results of this effort at reciprocity, we have remitted to these people, only lately emerging from semibarbarism, under the pretext of reciprocity, more than all of their wealth, according to their own figures, while at the same time our exports to that country have amounted to a comparatively unimportant sum.

As shown recently by my friend from Alabama [Mr. HERBERT] here I think, the duties collected from these islands on imports in the year 1889 under the general tariff laws would have amounted to over \$5,000,000, while all our exports to the ports of that country during the same year were a sum much less in amount than the duties remitted. This is a sample of reciprocity.

I wish to call attention to another fact, that by the terms of that treaty the customhouses have admitted to this country grades of sugar free from duty running up as high as No. 20, while the tariff law, which you enacted in the last few months, admits free of duty only sugars up to the grade of No. 16. If you will examine the report of the Superintendent of the Bureau of Statistics, you will find that millions of pounds of sugar running above No. 16 have been imported free into this country under the operation of that treaty.

Now, if you by any means re-enact the statute by this Congress to execute that treaty, you will exhibit that discrimination to the other nations of the world at the very time when you are attempting to cultivate a spirit of reciprocity with our neighbors. You must mark that consequence.

I am also to be informed, as the report, I believe, stated, that the treaty with the Hawaiian Islands required that due notice should be given when it was to be terminated; and it was said that it would be an act of bad faith on our part, by act of Congress arbitrarily and without notice, to terminate a provision of that sort. And there is force in that statement.

There is here some ground for indictment against Congress for doing this rash and precipitate thing without notice, in so far as international equity and comity are concerned.

But, sir, all the nations of the earth have notice that the treaty-making power of the United States can not make an irrevocable treaty. All the nations of the earth, savage and barbarous alike, are on notice that where the President and the Senate may make a treaty containing that stipulation, yet under the Constitution of the country and the laws of the United States the people, as represented in the House of Representatives and the other branch of Congress, can repeal any such compact; and the world is on notice of that fact.

The other party to the treaty were aware of it; and we have in the passage of this act, so far as strict right is concerned, done that which we had not only the legal and constitutional right to do, but which the people of all the earth knew we had the right to do.

There was a very recent instance of the exercise of this authority on the part of Congress. Gentlemen know well that there was passed during the last Congress what is known as the Chinese repeal bill—the Chinese exclusion act—presented here without having been printed, and offered and passed by unanimous consent without objection, even the distinguished gentleman from Maine [the Speaker] sitting in front of me not opening his mouth in protest against it, or the gentleman from Ohio [Mr. MCKINLEY] either.

Now, if we could treat these people of the Flowery Kingdom in this arbitrary and peremptory way, without any complaint ever having been made by gentlemen on either side of this House, can we not do the same thing against these islands, where nearly half the population are of the same kind of people, the Chinese, without the reproach which the gentleman feels attaches to us by the modification which has been made in the bill? I suspect there is some other motive beneath this measure, in which I have no idea my friend from Ohio participates.

In the old days, sir, there was formulated and published in this country what was known as the Monroe doctrine, which in substance had as its object to prevent any European power from getting a foothold on this continent; but it never went to the extent of territorial aggrandizement in the islands of the sea. Since we have become great and glorious and rich and proud we propose to establish our borders and to set up our flag in these islands of the Pacific Ocean; and at this very time, if I understand correctly the state of our diplomatic relations, there is on our statute books a convention arranged at Berlin by this Administration by which we are maintaining a king of the Samoan Islands and paying a part of the expense out of the Treasury of the United States.

The purpose is simply, among those who have control of our foreign policy, to establish in these distant islands something like an American protectorate or an American ownership, for the glory of the flag and for the spreading of the eagle's wings. I am opposed to it, Mr. Speaker. I am content with our possessions on American soil. I want to avoid, in the language of the father of his country, entangling alliances. I do not want to make occasion for a navy. I want no imbroglio with Germany or with England or with any other country, but I wish a state of things by which, granting to every other country its just rights, we may meet them on principles of good faith and comity on the high seas, and in the ports of all countries, on the basis of a broad and universal reciprocity.

Mr. Speaker, I wish to say to the gentleman from Ohio that if this pretext of violated faith, *punica fides*, is the only pretext for the passage of this bill, he may perhaps succeed better in accomplishing the end by amending this bill so that it shall operate only for the balance of the period which the renewed or extended treaty would require; that is, that it shall extend from this time on for the unexpired portion of the renewal of the treaty which went into effect, I think, in the fall of 1887; but I am utterly opposed in the first place to a technical statutory re-enactment of a treaty which is a contract with a foreign power, and in the next place I am opposed to the re-enactment of this treaty in terms, or a statute which in terms recognizes the right

and equity of this treaty, and which amounts to an indefinite extension of its terms.

If the gentleman will so amend it as not to amount to an indefinite extension of the terms of that contract, but will limit it to that period of time which by its expiration will have fully satisfied every scruple as to the terms of this treaty, then I will interpose no objection as far as I am individually concerned, but in its present form and in its present state I shall be bound to vote against it.

Mr. MCKINLEY. I yield to the gentleman from Texas [Mr. MILLS].

Mr. MILLS. Mr. Speaker, I only wish to submit a few remarks with reference to this measure. In 1875 a treaty was made, as my friend from Georgia states, between the Government of the United States and the Government of the Hawaiian Islands, to run for seven years and to continue to run until notice was given by either Government of a termination of the treaty. That treaty provided for the free importation into this country of sugar, rice, and some other things not necessary now to mention.

During Cleveland's administration another treaty was made between the Government of the United States and the Government of the Hawaiian Islands further extending this treaty for an additional seven years, I believe, the Government of the Hawaiian Islands giving, as an additional consideration to the Government of the United States, a harbor, I believe, at Pearl River, in one of the islands of that group. I agree with my friend that as far as the Government of the United States is concerned this has been a losing business to us all the time, and I have been opposed, as the record of this House will show, to this Hawaiian treaty all the time.

I have reported from the Committee on Ways and Means for its termination, and up to the time of the introduction of the bill now pending before the House I was still opposed to it; but on an investigation of the question I have come to the conclusion that our time now to get some advantage from this treaty has just come; and that in return for the forty-odd millions of dollars which we have lost, which my friend from Georgia correctly states, by the revenues which we remitted on sugar and rice and other products, we ought to retain this Pearl River harbor in the Pacific Ocean. I believe we have only two harbors of any consequence in the Pacific waters, one in the Samoan Islands at Pango Pango and this one at Pearl River.

This harbor is of very great consequence to our commerce. It is a place where we may have a coaling station, and one of the main reasons for the negotiations of this treaty was the securing of this harbor for coal for our vessels carrying our commerce in the Pacific Ocean and in the Southern Ocean. Now, the Government of the Hawaiian Islands, as we all know, has changed suddenly within the last few weeks, and the King, who has been a constant friend of the people of the United States, is dead. The crown has descended to a member of his family, who, I understand, is not friendly to the people of the United States; and the last papers we have show that there is a controversy in that Kingdom between the reigning Queen and her cabinet.

It is not certain what will be the effect on our relations with that country. If we consent to a repeal of this treaty now we will permit the harbor to pass away from us, because, as Daniel Webster said in his Capon Springs speech, "A compact broken on one side is a compact broken on all sides." If we repeal the treaty with the Government of the Hawaiian Islands, that Government will abandon the treaty and say, "We will take Pearl River back. You have put sugar on the free list. We get all the benefit we negotiated for, and now all that is left of any consequence is the duty on rice." We do take a little rice from them. But in the treaty with her we admitted it free. By this bill, through an oversight, we repealed that provision and put a tax on rice. We did not except the Hawaiian Islands from its provisions. Now rice has been taken from the free list and put on the dutiable list.

Mr. HERBERT. Is that the respect in which it is held to repeal the treaty?

Mr. MILLS. No; it is the duty on sugar and on rice.

Mr. HERBERT. I understand that; but what I mean to ask is this: It is said that the McKinley act repealed this treaty?

Mr. MILLS. Yes.

Mr. HERBERT. Did the repeal contain any limit to the duty on sugar?

Mr. MILLS. On rice mostly.

Mr. HERBERT. One or both?

Mr. MILLS. Sugar is put on the free list.

Mr. HERBERT. Is that all repealed?

Mr. MILLS. That is what is understood.

Mr. CATCHINGS. We did not repeal it. They are construed together.

Mr. MILLS. It was so construed, and our Senators came to the same conclusion. Mr. CARLISLE attacked the bill for that very thing, and said that it was repealing this treaty, involving us in this difficulty, and he insisted on the Senate correcting it, but they declined to do so. Now, we have this question presented to us, Will we restore the provision, or shall we abandon the Pearl River Harbor and that coaling station in the Pacific Ocean? I believe we have expended a large amount

of money in improvements on that harbor. Will we give that up or put back the tax on rice?

Mr. TURNER, of Georgia. Does my friend understand what amount has been expended on these improvements?

Mr. MILLS. I understand there has been some money expended for the improvements, and I understand also that there is a provision in one of the appropriation bills to make payment for these improvements.

Mr. HERBERT. Now, in respect to the treaties repealed. I will ask the gentleman if the Pearl River attachment was not in the original treaty?

Mr. MILLS. It was in the second one. That is what I said. It was in the Cleveland treaty of 1884.

Mr. TURNER, of Georgia. The gentleman is mistaken. The Cleveland treaty was made in 1884, but it was proclaimed in 1887.

Mr. MILLS. I know that during Mr. Cleveland's Administration he and Mr. Bayard were constantly urging it and I was opposing it, because, as my friend has stated, we were giving up too large a revenue, and we were receiving nothing, as we had taken all the duty off sugar.

Mr. PRICE. No; it is not all taken off. Mr. MILLS. Up to 16 degrees but substantially we took the duty off the whole of the sugar. Now, if we pass this act we get the advantages that we have in that harbor as a place for coaling and a place for refuge for our vessels, and I think we had better pass the bill and receive the benefit that we have arranged for.

Mr. HERBERT. Did we not also get in that treaty the right to import into Hawaii certain things free of duty?

Mr. MILLS. Why, of course.

Mr. TURNER, of Georgia. If my friend will pardon me right there, I want to state a fact that my friend from Alabama [Mr. HERBERT] is as well aware of as I am, and that is, when this first treaty was made with the King of the Hawaiian Islands the average on their dutiable list amounted to only 14 per cent., while on the importations into those islands that paid duty in 1889, the average rate had run up to 32 per cent. It seems they were learning something from the American States in this tariff business.

Mr. MILLS. A bad education. [Laughter.]

Mr. HERBERT. I understand it is a fact that the general average of the Hawaiian tariff is very much higher than it was in 1876 at the time of the negotiation of this treaty. I also understand, however, that as to a large portion of the goods which we send to Hawaii under the treaty there is now no duty imposed, and if this treaty is abrogated entirely, the effect will probably be to impose the present high rates of tariff duties upon our goods which now go in there free.

Mr. TURNER, of Georgia. Not without a new enactment.

Mr. HERBERT. Well, if they impose the same duties upon our goods which now go there free that they impose upon the goods of other nations, would we or would we not lose? I have not looked at the treaty myself, and I am asking this for information.

Mr. TURNER, of Georgia. Lose, how?

Mr. HERBERT. I mean to ask as to the present value to us of the privilege which we now have of shipping certain goods into that country free of duty.

Mr. TURNER, of Georgia. The gentleman knows that our exports to those islands amounted to little in comparison with what we derived from the islands.

Mr. HERBERT. As I understand, the advantage which we gave them under the treaty was largely in releasing the duty on sugar. I understand that it was an advantage to Hawaiians that we should release those sugar duties, because they got a price increased by the amount of the duty, but since we have taken the duty off sugar Hawaii now gets only the same price for her sugar that other nations get. Having changed the conditions by repealing the duty on sugar, Hawaii no longer gets the advantage of the release of that duty.

Now, how would the treaty stand? I wish the gentleman would give us some information as to what would be the result in that respect. I will ask the gentleman in charge of the bill [Mr. MCKINLEY] to give us that information. I ask him what is the present value of the privilege of shipping free of duty into the Hawaiian Islands the goods which we now send there in that way?

Mr. MCKINLEY. I am not able to state; but I have before me a list of the articles which are admitted free of duty in the Hawaiian Islands. I understood the question of the gentleman to be whether if this treaty were abrogated the duties levied upon those articles, as applicable to other countries, would not at once become applicable to like articles going there from the United States.

Mr. TURNER, of Georgia. I understood the last question of the gentleman from Alabama to relate to what would be the duty here on our imports from the Hawaiian Islands if we imposed the duties that are prescribed in the act of the 1st of October last.

Mr. MCKINLEY. If that is the gentleman's question, I will say—

Mr. TURNER, of Georgia. I can inform the gentleman from Alabama that the imports of rice from the Hawaiian Islands amount, according to my recollection, to from twelve to thirteen million pounds every year, and the duty on that article at the present rate would amount to about \$200,000.

Mr. MCKINLEY. The duty on rice and tallow and the other articles that were imported last year would amount to about \$150,000.

Mr. TURNER, of Georgia. I think it would run a little over that.

Mr. MCKINLEY. I have the statement before me.

Mr. HERBERT. That is one thing that we ought to know. Now, I should like to know also what is the value of the duties released to us by Hawaii?

Mr. MCKINLEY. That I am not able to state at this moment, because I do not know what the duties would be under the present law upon the articles which go into the islands under the treaty.

Mr. TURNER, of Georgia. I can state to the gentleman from Alabama that the duties imposed by the Hawaiian Government upon articles that are taxed are more than twice as high now as they were at the time of the negotiation of the treaty—I mean the rates on our exports to those islands in 1889 as compared with the rates of the year before the treaty was made.

Mr. BRECKINRIDGE, of Arkansas. Mr. Speaker, I wish to say only a word on this question. I shall vote for the resolution of the gentleman from Ohio, but only because this matter is not cured in more effective manner.

The gentleman from Georgia [Mr. TURNER] has spoken of the power of our Government to repeal a treaty, and has very fully and very ably stated the steps that are necessary to re-enact a treaty when it has been repealed; and this certainly is not the manner in which treaties are negotiated or renewed.

Undoubtedly Congress, in passing a bill, often puts into it provisions stating how the bill then enacted shall or shall not be construed, and I dare say that, in a legislative way, Congress can pass an act now construing a past act from this time forward; but this law that we are now qualifying has, in most of its features, been in force since some time in October, 1890, if I am not mistaken.

Now, I am not informed whether any claims can arise under what are here confessed to be equities for duties that have already been paid. Such cases would undoubtedly have every consideration of honor as against this Government in favor of their payment, and in a resolution of this character (not to criticize it in other particulars) some provision should be made for claims that may have arisen, just as we provide in general law for the repayment of duties improperly collected. That is not provided for.

Mr. WILSON, of West Virginia. I would like to ask the gentleman whether the McKinley bill has actually been interpreted and enforced by the Treasury Department and through the customhouses as repealing the treaty, or whether this act is to guard against such a possible anticipated interpretation of it?

Mr. BRECKINRIDGE, of Arkansas. I will say to the gentleman that this resolution by its terms proposes to operate only from this time forward. Now, as to the interpretation which the Treasury Department may have adopted and as to any practices which may have grown up under the McKinley act, I have no data, and the chairman of the committee submits no data. But that brings me to another point to which I intended to refer, and which I think makes it very clear not only that if any importations have entered this country from Hawaii they are operated upon by that act as if they came from any other country, but also makes equally clear a point a little anterior to the line of discussion of the gentleman from Georgia—namely, that this treaty was repealed.

The language of the resolution is a little vague in that regard. It speaks of a fear that the treaty may have been repealed. Now, I call attention to the fact that in the McKinley bill as passed by this House there was, under the title of "general provisions," a provision such as is always put in tariff bills; it was in the Mills bill; it was in the act of 1883. That provision was in this language:

That nothing in this act shall in any way change or impair the force or effect of any treaty between the United States and any other Government, or any laws passed in pursuance of or for the execution of such treaty, etc.

It has always been deemed necessary to put such a provision as that in a revenue bill in order not to repeal the revenue features of any existing treaty. When that bill went to the Senate that body struck out this provision. The amendment when it went to conference was known as Senate amendment numbered 489. It appears on page 203 of the conference report. After the conferees had considered the action of the Senate striking out that provision the Senate adhered to its action, and the House conferees in the conference report, which I hold in my hand, advised the House to recede from its disagreement with the Senate on that amendment and to accede to the striking out of the provision.

By the advice of the distinguished gentleman who is the chairman of the Committee on Ways and Means, and who now brings in this resolution, the House did recede from its disagreement, and that provision that no part of the bill should repeal the provisions of existing treaties was stricken out.

Now, we know that treaties when duly ratified are by the Constitution a part of the law of the land; and you find in the McKinley bill as it passed both Houses of Congress the provision that—

All laws and parts of laws inconsistent with this act are hereby repealed.

There is the repealing clause; and there is the deliberate action of

both branches of Congress striking out the hitherto universal provision that "no part of this act shall repeal existing treaties." Therefore, there is no question of this treaty being repealed. Furthermore, this treaty only gained force and effect by the act of Congress approved August 15, 1876, putting it into effect, and the provision repealing "all laws and parts of laws inconsistent with this act" of course repeals the conflicting act cited. Attention was called to it in the Senate. It was deliberately done by both branches of Congress, or at least by the Senate and by the House conferees, though the House may not have been cognizant of it at the time it took action. We stand to-day with that treaty abrogated by that act of Congress. This resolution does not re-enact that act; hence it is ineffective.

Now, while I never believed in that treaty, yet I do not believe in abrogating a treaty except according to the terms which we agreed to when we adopted the treaty. Therefore, whatever might be my opposition to the treaty, I would favor restoring the original status; I would favor keeping faith, especially with a feeble power. The main fault, therefore, that I have to find with this resolution is that in this particular it seeks to deny an act that was openly and deliberately done; in the next place, that in undertaking to provide a remedy it does not provide redress for personal injuries that may have accrued by the violation of what we ourselves admit to have been our national obligations; and in the next place, because the measure provided in this resolution is of doubtful effectiveness.

Still we can not amend this resolution in any patchwork manner. In order to change it in the way that has been indicated by the gentleman from Georgia, and as I have tried to indicate, we should have to pursue a wholly different policy. As this, however, is the offer that is made by the majority of the committee, and the best thing in sight in this connection, I will vote for it, rejecting, however, all responsibility for it as a theory of remedy or as an effective cure.

Mr. MCKINLEY. Mr. Speaker, the only purpose of this resolution is to make certain that nothing in the tariff act of 1890 shall be held to impair the treaty which the United States has with the Hawaiian Islands.

In the bill which passed this House, as already stated by the gentleman from Arkansas [Mr. BRECKINRIDGE], there was a distinct provision excepting all treaties from the operation of that tariff act. That was put in there for the purpose and out of abundance of caution to save all of our treaties. It had been in the act of 1883 and had been in prior tariff acts. And so it went through this House. It went to the Senate and the Finance Committee of the Senate struck it out. The Senate itself subsequently concurred in the action of the Finance Committee, and when we got into conference it was one of the points of disagreement between the two Houses.

And I say here, Mr. Speaker, to the members of this House that in that conference, since it is public now—and it was made public the other day by Senators who were members of the committee—that I insisted on the part of the House that that provision should stand in the bill. There was a question raised as to the necessity of having any such provision in the bill at all. It was believed by gentlemen who were on that conference that it was wholly unnecessary for the preservation of the treaty that any such provision should be inserted in the law. Aside from that contention, I am sure no member of the conference committee and no member of either House desired the annulment of the treaty on a tariff bill; whatever may have been their opinion of the treaty itself, no one wanted it impaired through the revenue legislation of 1890.

Mr. BRECKINRIDGE, of Arkansas. Will the gentleman permit an interruption?

Mr. MCKINLEY. Certainly.

Mr. BRECKINRIDGE, of Arkansas. Is the gentleman from Ohio informed as to how the Treasury Department construe the tariff bill of 1890 in respect to these treaty provisions?

Mr. MCKINLEY. I can only say to the gentleman from Arkansas that at the time I introduced the resolution, or about that time, in a conversation I had with the late Secretary Windom, he requested with a great deal of urgency that we should pass this bill at once; that he would be brought soon to consider the question whether he would collect the duties imposed upon certain articles which were free by the treaty and made dutiable by the tariff law of 1890, saying that he did not see how he could avoid enforcing the duties as fixed by the law of 1890. He was exceedingly anxious to be saved from embarrassment and to avoid any act which might be held as a violation of the treaty. That is all the information I have in respect to that subject. What course he took I am not advised.

Mr. COLEMAN. Will the gentleman from Ohio yield to me for a moment?

Mr. MCKINLEY. Certainly.

Mr. COLEMAN. What benefit does this country get by the terms of the treaty in consideration of having sugar and rice come in free?

Mr. MCKINLEY. Among other things, I will say in response to the gentleman from Louisiana, we get the Pearl River harbor concession. Article II of the treaty is as follows:

His Majesty the King of the Hawaiian Islands grants to the Government of the United States the exclusive right to enter the harbor of Pearl River, in the

Island of Oahu, and to establish and maintain there a coaling and repair station for the use of vessels of the United States, and to that end the United States may improve the entrance to said harbor and do all other things needful to the purpose aforesaid.

But we get another thing, which, in my judgment, is of equal if not greater importance than even the Pearl River concession.

We have this provision in the treaty:

It is agreed on the part of his Hawaiian Majesty that so long as this treaty shall remain in force he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his domain, or make any special privilege of right of use therefor to any other power, state, or government; nor make any treaty by which any other nation shall obtain the same privileges, relative to the admission of any articles free of duty, hereby secured to the United States.

Now, in addition to the Pearl River harbor we have that concession from the King of the Hawaiian Islands, a most important concession, that he will not lease, grant, or give rights to any power in any port or territory of His Majesty; nor will he give to any other State or country the same privileges or concessions as to duties and articles imported free that he has given under this treaty to the Government of the United States.

Mr. COLEMAN. Will the gentleman allow me a word further?

Mr. MCKINLEY. Certainly.

Mr. COLEMAN. I wish to state here that the interests of Louisiana, the sugar and rice interests of that State, are prejudiced more, I think, by this treaty than the interests of any other part of the country. I do not feel called upon, Mr. Speaker, to oppose the measure to such an extent as I would under other circumstances. But I think it is my duty to record the fact that the interests of the State of Louisiana that I am here to represent in part are prejudiced, as I have already said, more than any other section of the country. I sincerely hope that that matter will be borne in mind when our interests are considered hereafter.

Mr. MCKINLEY. Mr. Speaker, the excess of our imports over our exports largely grows out of the free admission of sugar. That was the concession given to the Hawaiian Islands. It was an exclusive privilege, but it is no longer so. Now, gentlemen say that it was a very bad bargain. Well, it may or it may not have been a bad bargain at the beginning, but that can not be said of it now, since sugar is made free to every other country in the world and the Islands enjoy no exclusive privileges in this respect. But good or bad it was a treaty, made by a Republican Administration and extended by the Administration of President Cleveland in 1887 for seven years, and must be faithfully and honorably kept by the United States.

I beg to call the attention of the House to the fact that the only articles that are made dutiable by the tariff law of 1890, which are free under the treaty with the Hawaiian Islands, are castor oil, nuts, vegetables, dried and undried, preserved and unpreserved, rice, seeds, plants, shrubs, trees, and tallow. They are the only articles affected by the tariff law which are free under the treaty between the United States and the Hawaiian Islands; and last year, upon the importation of those articles the duties would have amounted to about \$150,000. That is to say, we are giving up from \$150,000 to \$200,000 annually for the privilege of the Pearl River harbor and the other concessions to which I have called the attention of this House.

Mr. COBB. Will the gentleman allow me right there—

Mr. MCKINLEY. Yes, sir.

Mr. COBB. I understood you to admit that in your opinion this treaty was repealed.

Mr. MCKINLEY. I did not admit that the treaty was repealed. I did say in answer to the gentleman from Georgia [Mr. TURNER], who put the inquiry to me, that in my judgment the treaty might be affected as to these articles which were free under the treaty, and which were made dutiable by the act of 1890. At all events, that is the contention, and if you followed the report which I made you will see I only stated that it was claimed in certain quarters that it might abrogate the treaty to that extent. It is to save any question and remove all doubt that I have reported this resolution.

Mr. BRECKINRIDGE, of Kentucky. Will the gentleman permit me right there to suggest, if we have done anything which violates the treaty, if the other party accepts the violation and sets it aside, if we through Congress declare that we did not mean it, and that declaration is accepted by the other party, what harm is done?

Mr. MCKINLEY. None whatever. That is the point which I was about to make. If this satisfies the other contracting party, then we ought to be willing to give it. It preserves our own honor and disclaims any purpose to violate the sacred obligations of our treaty.

Mr. COBB. Will the gentleman allow me to prosecute the matter to which I wished to call his attention? If the treaty has been repealed, then all the obligations hitherto resting upon this Hawaiian Government have been removed from them and they are under no further obligation to us. Is not that the fact?

Mr. MCKINLEY. I hope they do not feel that way. I do not think they do. At all events, by the passage of this bill we keep our own obligations.

Mr. COBB. That would be the effect in law, would it not?

Mr. MCKINLEY. The gentleman knows as well as I do what the effect in law would be.

By Article I thereof, the following products of the Hawaiian Kingdom were accorded exemption from customs duties on entering the United States:

Arrow-root; castor-oil; bananas; nuts; vegetables, dried and undried, preserved and unpreserved; hides and skins undressed; rice; pulu; seeds; plants; shrubs, or trees; muscovado, brown, and all other unrefined sugar, meaning hereby the grades of sugar heretofore commonly imported from the Hawaiian Islands and now known in the markets of San Francisco and Portland as "Sandwich Island sugar;" sirups of sugar-cane, melado, and molasses; tallow.

And by Article XI a large and valuable schedule of products and manufactures of the United States to be admitted duty free into the Kingdom of Hawaii is stipulated, as follows:

Agricultural implements; animals; beef, bacon, pork, ham, and all fresh, smoked or preserved meats; boots and shoes; grain, flour, meal and bran, bread and bread-stuffs, of all kinds; bricks, lime, and cement; butter, cheese, lard, tallow; bul- lion; coal; cordage; naval stores, including tar, pitch, resin, turpentine, raw and rectified; copper and composition sheathing; nails and bolts; cotton and man- ufactures of cotton, bleached and unbleached, and whether or not colored, stained, painted, or printed; eggs; fish and oysters, and all other creatures living in the water, and the products thereof; fruits, nuts, and vegetables, green, dried, or undried, preserved or unpreserved; hardware; hides; furs, skins, and pelts, dressed or undressed; hoop iron and rivets, nails, spikes and bolts, tacks, brads or sprigs; ice; iron and steel and manufactures thereof; leather; lumber and timber of all kinds, round, hewed, sawed, and unmanufactured, in whole or in part; doors, sashes, and blinds; machinery of all kinds, engines and parts thereof; oats and hay; paper, stationery and books, and all manufac- tures of paper or of paper and wood; petroleum and all oils for lubricating or illuminating purposes; plants, shrubs, trees, and seeds; rice; sugar, refined or unrefined; salt; soap; shooks, staves, and headings; wool and manufac- tures of wool, other than ready-made clothing; wagons and carts for the pur- poses of agriculture or of drayage; wood and manufactures of wood, or of wood and metal except furniture either upholstered or carved, and carriages; textile manufactures, made of a combination of wool, cotton, silk, or linen, or of any two or more of them other than when ready-made clothing; harness and all manufactures of leather; starch; and tobacco, whether in leaf or manu- factured.

Mr. COBB. I am asking your opinion. If it is repealed, does not the repeal of the treaty remove any obligation on their part to us? And, if so, are we to restore the obligation to them by an act of Congress in this way?

Mr. MCKINLEY. Mr. Speaker, the only thing we can do and the only thing we undertake to do is to say that by the tariff act of 1890 we did not mean to impair any part of the treaty. That was the understanding of the majority of the committee of conference. That is all we can say, and that is all we propose under this resolution. Good faith requires us to pass it, independent and above every other consid- eration. We must keep our treaty stipulations, whether good or bad, and there are few, indeed, who do not hold this a valuable treaty com- mercially and politically. Now, Mr. Speaker, I will not detain the House any longer.

Mr. BRECKINRIDGE, of Kentucky. Will the gentleman from Ohio [Mr. MCKINLEY] allow me to ask him a question. Under the treaty, if my recollection serves me, the Hawaiian Islands were en- titled to six months' notice.

Mr. MCKINLEY. One year's notice.

Mr. BRECKINRIDGE, of Kentucky. One year's notice of the abro- gation of the treaty. If therefore we have done any act which might be construed into an abrogation of the treaty, we have violated our good faith in not giving that notice; and is it not a matter of national honor that we shall declare that we did not mean by this act to violate that good faith? And if the Hawaiian Islands accept that, it is exactly as if it had not been done.

Mr. MCKINLEY. I think my friend is right about it.

Mr. TURNER, of Georgia. Does my friend from Kentucky mean to intimate that that is the only wrong done by the McKinley bill?

Mr. BRECKINRIDGE, of Kentucky. That is the only wrong done the Hawaiian Islands by the McKinley bill. And whatever wrong the McKinley bill has done to other people, that is a subject so large and the facts are so multifarious that I would not undertake to repeat them at ten minutes to 12 o'clock on Saturday night.

Mr. MCKINLEY. They will be left for the next House to correct, if there are any.

Mr. COBB. Then the whole matter rests in the discretion of the Government of those islands, even if we pass this bill.

Mr. BRECKINRIDGE, of Kentucky. No, my position is not that. My position is, admitting all that my friend from Georgia has said, if the other party to the contract does not take advantage of that which might have been a breach of the contract on our part and is satisfied with our declaration that that was not intended as a breach, there is nobody else to enter a complaint and no other party litigant to make a case.

Mr. TURNER, of Georgia. I would like to ask my friend who has considered this matter, suppose my friend from Kentucky [Mr. BRECK- INRIDGE] were the Secretary of the Treasury—

Mr. BRECKINRIDGE, of Kentucky. No such good fortune awaits the country, I fear. [Laughter.]

Mr. TURNER, of Georgia. I hope he may be some day; or suppose he should some day be a judge of the Supreme Court or of the district court of the United States, in which this question may be raised—

Mr. BRECKINRIDGE, of Kentucky. I am afraid President Har- rison would not see his way clear to do that. [Laughter.]

Mr. TURNER, of Georgia. My friend is muddying the water.

[Laughter.] I would like to ask my friend whether he would hold that this act revised the treaty without some new negotiation or stipu- lation or consent of the other party.

Mr. BRECKINRIDGE, of Kentucky. I am very frank to say, when this resolution came into the House I said to the gentleman from Ohio [Mr. MCKINLEY] and the Senator from Kentucky [Mr. CAR- LISLE] that I was afraid this bill did not cover the case, and I would be glad to see it drawn in a different manner; that I feared it was liable to objections, which, if made against it, might affect its passage.

Mr. TURNER, of Georgia. In view of the gentleman's statement I will not insist any further.

Mr. BRECKINRIDGE, of Kentucky. I believe it ought to pass, because our fame and good name are involved in it; and as it was sat- isfactory to the Hawaiian minister here, I think the best thing we could do is to pass it. But I do not think it is drawn as I would like to draw it, and it could be drawn in a way which would better express my views as a lawyer.

Mr. ROGERS. If we were to tell these people that we did not want to repeal the treaty, would that statement be true or not?

Mr. BRECKINRIDGE, of Kentucky. That would be a question between us and the people of the Hawaiian Islands, and I do not intend in an international matter to take sides against my own people. Against all outsiders I am for all America.

Mr. PRICE. I would like to ask the gentleman a question. As a certain class of sugars still pay a duty under the McKinley bill, I de- sire to inquire what the revenue on that class of sugars imported from the Hawaiian Islands would annually amount to if the treaty were ab- rogated?

Mr. MCKINLEY. I do not know. My interest in this matter has been to preserve the good faith of the Government, and this resolution is intended to show that the tariff law should not disturb that treaty. [Cries of "Vote!" "Vote!"]

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

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

The latter motion was agreed to.

RICHARD WELLER.

The SPEAKER also laid before the House the bill (H. R. 1257) to re- move the charge of desertion against Richard Weller, and authorizing his honorable discharge, with Senate amendment.

The Senate amendment was read.

Mr. WILLIAMS, of Ohio. I move to concur in the Senate amend- ment.

The motion was agreed to.

DAVID C. CLOUSE.

The Speaker also laid before the House the bill (H. R. 5208) grant- ing an honorable discharge to David C. Clouse, with Senate amend- ments.

The Senate amendments were read.

Mr. WILLIAMS, of Ohio. I move to concur in the Senate amend- ments.

The motion was agreed to.

NANCY W. METCALFE.

The SPEAKER also laid before the House the bill (H. R. 6415) to reissue a pension certificate of Nancy W. Metcalfe, and to allow her a pension as surgeon's widow, with Senate amendment.

The Senate amendment was read.

Mr. MORRILL. I move to concur in the Senate amendment.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCook, its Secretary, announced that the Senate had agreed to the report of the committee of confer- ence on the disagreeing votes of the two Houses on the amendment of the Senate to the joint resolution (H. Res. 138) to increase the number of members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, and to fill vacancies in such board.

It is also announced that the Senate had passed the bill (H. R. 13388) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1892, and for other purposes, with amendment; asked a conference with the House on the bill and amendment, and had appointed Mr. DAWES, Mr. PLUMB, and Mr. CALL as the conferees on the part of the Senate.

Also, that the Senate had passed the bill (S. 4801) to provide for the purchase of a site, and the erection of a public building thereon, at Boise City, in the State of Idaho; in which the concurrence of the House was requested.

Also, that the Senate had passed without amendment House bills of the following titles:

A bill (H. R. 4745) directing the Secretary of War to issue an hon- orable discharge to John Reilly;

A bill (H. R. 5063) for the relief of Charles W. Lambert;
 A bill (H. R. 5319) to remove the charge of desertion from the record of Allen S. Thateher;
 A bill (H. R. 5686) for the relief of Timothy C. Barjerow;
 A bill (H. R. 10339) for the relief of Peter Weber;
 A bill (H. R. 10805) for the relief of Spencer D. Hunt; and
 A bill (H. R. 12643) to remove the charge of desertion from the record of Michael Mahan.

Also, that the Senate had passed with amendments the bill (H. R. 10611) granting a pension to Mary Ellis; and a joint resolution (S. R. 166) correcting an error in an enrolled bill; in which concurrence was requested.

The message also communicated to the House the resolutions of the Senate on the death of Hon. George Hearst, a Senator from the State of California.

REORGANIZATION OF THE ARMY.

The SPEAKER laid before the House the bill (H. R. 3865) providing for the reorganization of the artillery force of the Army, with Senate amendments.

During the reading of the amendments,

Mr. BRECKINRIDGE, of Kentucky, said: Mr. Speaker, I rise to suggest to whoever is in charge of the bill that it be printed in the RECORD and lie upon the Speaker's table without losing its privilege. It is too important a bill to pass at night, involving changes in the Army, increasing it by thousands, and making other important changes. It is utterly unknown to a majority of the House. I would be frank to say that I would be utterly unwilling to see it pass without consideration.

The SPEAKER. The chairman of the Committee on Military Affairs has informed the Chair that he desired to have the bill sent to a committee of conference.

Mr. BRECKINRIDGE, of Kentucky. Mr. Speaker, there are some amendments which I for one should want to offer. I do not wish to obstruct the passage of the bill, but I think if the gentleman will let it be printed in the RECORD and not lose its privilege, and lie on the Speaker's table to be taken up, it will facilitate the passage of some bills that would not otherwise be reached.

Mr. CUTCHEON. The bill is a very important one. The House sent to the Senate a bill to reorganize the artillery arm of the service. There has been attached to it by the Senate another House bill which was favorably reported last summer by the gentleman from Alabama [Mr. WHEELER], and which is known as the Wheeler bill, to reorganize the infantry arm of the service, and those bills, together with the features spoken of by the gentleman from Kentucky [Mr. BRECKINRIDGE], restoring the authorized strength of the Army to 30,000 (which was the law until 1884), constitute the bill which has been sent to us by the Senate. At this very late hour, and without a full House, if the gentleman from Kentucky would agree that the bill might go into conference I think that a satisfactory result would be obtained.

Mr. BRECKINRIDGE, of Kentucky. Mr. Speaker, this is a very important bill. It will increase the appropriations some six or seven million dollars.

Mr. CUTCHEON. Oh, no. It will not necessarily increase them at all.

Mr. BRECKINRIDGE, of Kentucky. Not "necessarily," in the sense of its being an absolute necessity, but necessarily in the sense that it will practically do it.

Mr. CUTCHEON. For instance, the present authorized strength of the Army is 25,000 men, but, as a matter of fact, we have only 21,000, and when the authorized strength was 30,000, from 1869 to 1884, as a matter of fact we kept less than 25,000 men in the service.

Mr. BRECKINRIDGE, of Kentucky. Having the bill go to a conference removes it from the possibility of amendment.

Mr. CUTCHEON. Of course the committee would bring the bill back to the House in the form of a conference report.

Mr. BRECKINRIDGE, of Kentucky. Well, we all know that a conference report in the last two days of the session, with the privilege that it carries and the impossibility of separating the items, amounts practically to a denial of the right of amendment. It puts the House in the attitude of having either to reject the bill or take it as a whole, and I think it will be better if the gentleman will allow the bill to be printed in the RECORD, so that it may be examined by members at their leisure after attention has been called to it in this way.

Mr. CUTCHEON. I will say to the gentleman that every feature of the bill has been thoroughly considered by the Committee on Military Affairs.

Mr. BRECKINRIDGE, of Kentucky. I do not want to raise the question of order that the bill should go to the Committee of the Whole.

Mr. CUTCHEON. I hope not.

Mr. BRECKINRIDGE, of Kentucky. I do not wish to be obstructive about it. I wish the bill to keep its privilege.

Mr. CUTCHEON. Well, Mr. Speaker, in view of the suggestion of the gentleman from Kentucky, if the bill may retain its privilege the same as the copyright bill did, with the privilege of being called up on Monday morning.

Mr. CANNON. I do not want any agreement—

The SPEAKER. The gentleman from Michigan [Mr. CUTCHEON] asks unanimous consent that this bill may be printed in the RECORD, and resume its place on the Speaker's table.

Mr. CANNON. I do not want the right to be lost, if anybody thinks proper to exercise it, to make the point of order upon it.

The SPEAKER. It does not acquire any additional rights. It remains in the same position in which it has been all day.

Mr. BOUTELLE. I trust this bill is to be printed in the RECORD, Mr. Speaker. Many of us have never heard of it before.

The SPEAKER. Unanimous consent has been asked that it may be printed in the RECORD. Is there objection?

There was no objection, and it was so ordered.

The bill is as follows:

Be it enacted, etc., That the line of the Army shall consist of twenty-five regiments of infantry, ten regiments of cavalry, seven regiments of artillery, one regiment of engineers, and the officers of the Corps of Engineers, who, when on duty with troops, shall be eligible to command according to rank.

SEC. 2. That each regiment of infantry, cavalry, and artillery shall have one colonel, one lieutenant colonel, three majors, one lieutenant as adjutant, one lieutenant as quartermaster, one sergeant major, one quartermaster sergeant, one chief musician, two principal musicians, and twelve companies.

SEC. 3. That the regiment of engineers shall consist of such number of companies, not to exceed twelve, as the President may direct, and shall be officered by sufficient details from the officers of the Corps of Engineers.

SEC. 4. That each company throughout the line of the Army shall have one captain, one first lieutenant, and one second lieutenant, and the enlisted men authorized by law: *Provided*, That the number of second lieutenants to each infantry regiment shall not exceed eight.

SEC. 5. That the number of enlisted men of all grades shall not exceed 30,000, exclusive of the hospital corps and general-service clerks and messengers, unless otherwise authorized by Congress: *Provided*, That a number not less than 2,000 enlisted men of the Army shall be Indians, and the President may also, in his discretion, authorize the enlistment of such proportion of colored men for the service in one or more of said seven regiments of artillery as the interests of the service may demand.

SEC. 6. That the seven regiments of artillery shall be officered by the promotion, assignment, and transfer of the officers now in the artillery, and any vacancies thereafter remaining in the grade of second lieutenant may be filled in whole or in part by transfer from other arms of the service.

SEC. 7. That original vacancies above the grade of second lieutenant created by this act in the infantry shall be filled by promotion according to seniority in the infantry arm of the service.

SEC. 8. That in time of war the President may increase the number of lieutenants in any of the batteries of artillery to three or four, at his discretion, by assignment of officers of the artillery.

SEC. 9. That the President shall apportion the men authorized among the several arms as the good of the service may require, and he may, in his discretion, consolidate the enlisted men assigned to any regiment into such number of companies, troops, or batteries as can be fully officered by the number of officers who are usually on duty with the regiment, thus leaving a number of companies proportionate to the number of officers who are habitually absent on detached service, without enlisted men, in time of peace, so that all the organizations in actual service shall have their full complement of officers and men generally present for duty; and in time of war the President may detach from the regiments or corps of the Army such number of officers as the good of the service may require for duty with the volunteer forces in the service of the United States, and he may assign to every regiment of the line of the Army such number of lieutenants of volunteers as may be needed to supply the places of officers of those regiments who may be absent on such detached service or absent from their regiments for other causes.

ADJOURNMENT OVER SUNDAY.

Mr. MCKINLEY. Mr. Speaker, I move that when the House adjourns this evening, it adjourn to meet at 10 o'clock on Monday.

The motion was agreed to.

Mr. BRECKINRIDGE, of Kentucky. Can not the gentleman follow that by a motion to adjourn?

Mr. MCKINLEY. Not just yet.

Mr. BRECKINRIDGE, of Kentucky. I will not insist.

EZRA ABBOTT.

The SPEAKER laid before the House a bill (H. R. 10526) to remove the charge of desertion from the record of Ezra Abbott, late of Company I, Twenty-first Michigan Volunteer Infantry, with an amendment of the Senate thereto.

The amendment was read.

Mr. WILLIAMS, of Ohio. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

MYRON A. EASTMAN.

The SPEAKER also laid before the House a bill (H. R. 11040) to relieve Myron A. Eastman of the charge of desertion, with an amendment of the Senate thereto.

The amendment was read.

Mr. WILLIAMS, of Ohio. Mr. Speaker, I move that the Senate amendment be concurred in.

The motion was agreed to.

ALFRED CRAYTON.

The SPEAKER, as the next business on the Speaker's table, laid before the House, with the amendments of the Senate, the bill (H. R. 11069) for the relief of Alfred Crayton.

The amendments of the Senate were read, as follows:

In line 5, after the word "late," insert "of Company B;" and in line 6, after the word "Infantry," insert "and substitute therefor: "Absented himself without leave on October 5, 1862, and re-enlisted on October 23, 1862, in Company A,

One hundred and sixth Illinois Volunteers, and was honorably mustered out;" so as to make the bill read:

"*Be it enacted, etc.*, That the Secretary of War be, and he hereby is, directed to remove the charge of desertion now standing on the rolls against the name of Alfred Crayton, late of Company B, of Eleventh Illinois Infantry, and substitute therefor: "Absented himself without leave on October 5, 1862, and re-enlisted on October 23, 1862, in Company A, One hundred and sixth Illinois Volunteers, and was honorably mustered out."

Mr. WILLIAMS of Ohio. I move that the Senate amendments be concurred in.

The motion was agreed to.

DAVID L. LOCKERBY.

The SPEAKER, as the next business on the Speaker's table, laid before the House, with the amendments of the Senate, the bill (H. R. 6170) directing the issuance of an honorable discharge to David L. Lockerby, late of Company A, Ninety-sixth New York Volunteers.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause and insert:
"That the President of the United States be, and hereby is, authorized to revoke and set aside so much of Special Orders, numbered 320, headquarters of the Army, Adjutant General's Office, Washington, October 30, 1862, as dismissed Capt. David L. Lockerby, Ninety-sixth New York Volunteers, to date from August 8, 1862, and to accept the resignation of said David L. Lockerby as captain of Company A, Ninety-sixth Regiment New York Volunteers, as of the date of August 8, 1862, and to cause to be issued to him a certificate of such acceptance of his resignation and of honorable discharge from said volunteer service as of said date, August 8, 1862."

Mr. OSBORNE. I move that the Senate amendment be concurred in.

The SPEAKER. The Chair will state that by mistake conferees were appointed on this bill without the action of the House, the list which had been prepared in anticipation having been handed down by an error of the Clerk. That action of the House will, of course, be vacated.

The motion of Mr. OSBORNE to concur in the amendment of the Senate was agreed to.

HOWARD WILLISON.

The SPEAKER, as the next business on the Speaker's table, laid before the House, with the amendment of the Senate, the bill (H. R. 7155) granting an honorable discharge to Howard Willison.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause and insert:
"That the President of the United States be, and he is hereby, authorized to revoke and set aside so much of Special Orders numbered 190, War Department, Adjutant General's Office, dated Washington, May 28, 1864, as dismissed Second Lieut. Howard Willison, One hundred and third Illinois Volunteer Infantry, and to grant and to cause to be issued to said Willison a certificate of honorable muster out of the service as of the date of May 28, 1864: *Provided*, That said Howard Willison shall not be entitled by virtue of this act to any pay or allowance subsequent to May 28, 1864."

Mr. POST. I move that the amendment of the Senate be concurred in.

The amendment was agreed to.

NORFOLK AND WESTERN RAILROAD.

The SPEAKER laid before the House, as the next business in order, the bill (S. 4411) to authorize the Norfolk and Western Railroad Company, of Virginia, and the Washington and Cumberland Railroad Company, of Maryland, to extend their respective lines of road into and within the District of Columbia, and for other purposes.

The Clerk proceeded to read the bill.

Mr. LEE (interrupting the reading). I wish to state that the Committee on the District of Columbia has directed the reporting of an amendment which alters this bill very considerably, and it might save time to offer the amendment at once.

Mr. BOWDEN. I ask unanimous consent that the further reading of the bill be dispensed with.

The SPEAKER. Unanimous consent is asked to dispense with the further reading of this bill. Is there objection?

Mr. ADAMS. What is the parliamentary status of the bill?

The SPEAKER. It is a Senate bill similar to a House bill which has been favorably reported by the Committee on the District of Columbia.

Mr. ADAMS. Does the gentleman from Virginia [Mr. LEE] propose to incorporate in the bill any provision in regard to the bed of the canal?

Mr. LEE. No, sir; the matter is all arranged satisfactorily. The amendment prepared by the committee strikes out two sections, which were put on in the Senate, relating to the railroad from here to Cumberland.

Mr. ADAMS. Then the bill as proposed to be amended will contain no reference to any supposed rights—

Mr. LEE. No, sir; all those matters have been satisfactorily arranged.

Mr. BURTON. There is an express reservation in the first section in regard to the towpath or bed of the canal.

The SPEAKER. As the Chair understands, the provisions in regard to the second railroad named in the title are struck out.

Mr. LEE. Yes, sir; two sections are entirely struck out.

The SPEAKER. Is there objection to dispensing with the further reading of the bill?

There was no objection.

Mr. LEE. I now offer on behalf of the committee the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the enacting clause of the bill and insert the following:
"That the Norfolk and Western Railroad Company, a body corporate under the laws of the State of Virginia, be, and they are hereby authorized and empowered to extend their railroad into and within the District of Columbia, beginning for the said extension at the terminus of the main line of the said railroad on the Virginia side of the Potomac River and crossing said river by a suitable bridge to the east side or bank of said river, and thence following the same in an easterly direction, and by way of Water street in Georgetown, to Rock Creek, and crossing said creek by a suitable bridge, and thence to the terminus of the line in Washington City, which shall be west of Twenty-sixth street west, and between Pennsylvania avenue and Virginia avenue, and to be so located as not to obstruct the public use of K street and the bridge now crossing Rock Creek at Water street, at or near which point said company shall erect and maintain suitable passenger and freight stations, with the right also to acquire by purchase or condemnation, as hereinafter provided, such pieces or parcels of land as may be by said corporation required for its stations and warehouses within the cities of Georgetown and Washington on the route herein authorized for its use, with authority to construct and maintain single or double track railways on the said route through, along, and over said streets and avenues, with sidings, turn-outs, turntables, switches, and such other structures as may be necessary to the delivery of cars to warehouses and stations along said route, and to connect with and transfer its cars over any lines of railroad connecting with its lines: *Provided*, That no more than two tracks shall be laid along Water street in Georgetown by this or any other corporation. And the roads and tracks and bridges hereby authorized to be constructed shall be a public highway, and may be used by any person or corporation for the transportation of passengers and for the delivery and receiving of freight upon the payment of a reasonable compensation therefor to the owners of the road; and in case of dispute arising in regard thereto the same shall be summarily determined by the supreme court of the District of Columbia upon petition and answer: *Provided*, That the bridge to cross the Potomac River, connecting this extension with the main line of said Norfolk and Western Railroad at a practicable point above the Aqueduct or Free Bridge, shall be so constructed as to cause the least obstruction to the navigation of the river, upon plans to be approved by the Secretary of War, and so that its abutments on the north side of Potomac River and the construction of the proposed extension at any point shall not injure or obstruct the use of the canal or of the towpath of the Chesapeake and Ohio Canal: *Provided, however*, That nothing in this act shall be so construed as to authorize said company to acquire, occupy, or use any portion of the water way, berm bank, towpath, or slope of the bank sustaining the said towpath, or the lands covered by such slope.

"SEC. 2. That the said Norfolk and Western Railroad Company be, and is hereby, authorized and empowered to connect its line and tracks with the tracks of any other connecting railroad company which now enters or is constructed within, or which may hereafter enter, the District of Columbia, with the right to use the tracks of any such railroad upon such terms as to compensation, and upon such conditions as to the use of said tracks, as may be agreed upon between the said companies; and in case of dispute arising as to such compensation and conditions of use the same shall be summarily determined by the supreme court of the District of Columbia, upon petition and answer, and the use of said road shall not be interrupted by the pendency of such proceedings.

"SEC. 3. That the said company shall have power to construct and operate their said extension upon, across, or over such of the streets and avenues of said city as are upon its said route: *Provided, however*, That good, substantial, and effective gates and fences shall be placed along its said route, or across said streets or avenues, wherever the same may be required for the protection of the public in the judgment of the commissioners of the District of Columbia, as to which the company shall have due and sufficient notice.

"SEC. 4. That if the corporation can not agree with the owner for the purchase of the land that may be required for its right of way and for the construction, enlargement, or repair of its works, and for its stations and depot facilities, the right of condemnation hereinafter provided for shall be exercised pursuant to the provisions of chapter 18 of the Revised Statutes of the District of Columbia relating to railroad companies, so far as the same may be applicable thereto.

"SEC. 5. That the said railroad company shall have power and authority to borrow money, and to issue and sell its bonds from time to time for such sums as its board of directors may deem expedient and proper for the purposes of the company, the aggregate amount thereof not to exceed the cost of rights of way and construction, and may secure the payment of its bonds by mortgages or deeds of trust upon all or any portion of its property, real or personal, its contracts, privileges, and franchises acquired under this act.

"SEC. 6. That the construction of the extension of the road hereby authorized shall begin within two years after the approval of this act and be completed within three years from said date.

"SEC. 7. That Congress shall have power to regulate the manner and speed of running the cars of said railroad within the corporate limits of Washington and Georgetown.

"SEC. 8. That where the line of the Norfolk and Western Railroad Company, or the route thereof as herein authorized, shall coincide with or occupy any portion or portions of the route or right of way of any other railroad or transportation company or corporation holding from Congress a charter or authority to construct a line of railroad, and such company or corporation has not, pursuant to such authority, actually graded its roadbed and laid its tracks along and over the whole of the said portion or portions of its said route, ready for the efficient operation of its line of railroad before the 1st day of March, 1892, then and in that event the Norfolk and Western Railroad Company is hereby authorized to acquire in the manner hereinafter provided the said portion or portions of the said route or right of way, to grade its roadbed and lay tracks along and over the same, and to occupy the same for the operation of its line of railroad as hereinafter provided; but should the said company or corporation before the said date complete, in a substantial manner, the grading of their roadbed and the laying of their lines of tracks ready for the efficient transportation of steam railroad passenger and freight cars, then the Norfolk and Western Railroad Company, from the point where their tracks shall so coincide or connect with the tracks of the said company or corporation, shall use the same upon the terms and conditions as provided in the second section of this act to its own terminal point as hereinafter provided: *Provided, however*, That nothing in this section contained shall be so construed as to authorize the said railroad company to acquire or occupy any portion of the property rights or rights of way of the said Chesapeake and Ohio Canal Company excluded by the proviso to section 1 of this act without the consent of the said canal company, its successors or assigns.

"SEC. 9. Congress reserves the right to alter, amend, or repeal this act at any time."

Amend the title so as to read: "A bill to authorize the Norfolk and Western Railroad Company of Virginia to extend its line of road into and within the District of Columbia, and for other purposes."

Mr. BOWDEN (during the reading of the amendment). I move to

dispense with the further reading of the amendment. It is familiar to all members who have paid any attention to this matter.

Mr. MUDD. Oh, no; let it be read.

The reading of the amendment being concluded,

The SPEAKER. The question is on agreeing to the amendment just read.

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

Amend section 8 by striking out, in lines 32 and 33, the words "with the consent of the said canal company, its successors or assigns."

Mr. LEE. I accept that amendment.

Mr. ADAMS. What is the effect of that amendment, read in connection with the context?

The SPEAKER. The Clerk will read the proviso as it will stand if amended.

The Clerk read as follows:

Provided, however, That nothing in this section contained shall be so construed as to authorize the said railroad company to acquire or occupy any portion of the property rights or rights of way of the said Chesapeake and Ohio Canal Company excluded by the proviso to section 1 of this act.

[Mr. MUDD addressed the House. See Appendix.]

[Cries of "Vote!" "Vote!"]

Mr. McCOMAS. Let us vote on the amendment of my colleague.

Mr. LEE. I accept it.

The amendment to the amendment offered by Mr. MUDD was agreed to.

The SPEAKER. The question recurs upon the amendment of the gentleman from Virginia [Mr. LEE] as amended by the proposition of the gentleman from Maryland [Mr. MUDD].

The amendment was agreed to.

Mr. CLEMENTS. I offer the following amendment:

The Clerk read as follows:

Insert in line 59, page 3, after the word "canal," the words—

"That any other railroad company which may hereafter connect with the Norfolk and Western Railroad within the District of Columbia, or at or near the end of the bridge on the Virginia side of the Potomac River, shall have all the rights, powers, and privileges within said District of Columbia herein granted to the Norfolk and Western Railroad, and subject to all the limitations herein imposed.

Mr. LEE. Mr. Speaker, it strikes me, although I am perfectly willing that any railroad wanting to come into the city of Washington should use these tracks, that such railroad ought to pay a proportionate rate for it. It would be hard, after this railroad company has built a bridge and a road and erected buildings, to require the company to permit other railroads to have the benefit of these privileges without paying for them.

Mr. BOWDEN. I suggest that the gentleman from Georgia explain his amendment.

Mr. CLEMENTS. Of course the bridge ought not to be used without compensation, but I think if we let any of these roads in here, we ought to let them all come in on an equality.

Mr. BRECKINRIDGE, of Kentucky. Why not insert the proviso "upon reasonable compensation."

Mr. CLEMENTS. I am perfectly willing to accept that amendment. We should let them all in on the same terms in the interests of competition and for the benefit of the community, that there may be no monopoly about the matter. I will modify my amendment by adding the words "upon payment of reasonable compensation therefor."

The question was taken on the amendment of Mr. CLEMENTS; and the Speaker announced that the yeas seemed to have it.

On a division (demanded by Mr. CLEMENTS), there were—ayes 33, noes 32.

Mr. COTHRAN. I raise the point that no quorum is present.

Mr. BRECKINRIDGE, of Kentucky. Will the gentleman not be willing that the previous question shall be considered as ordered on the bill so that the vote shall be taken on the bill itself?

The SPEAKER. The gentleman makes the point that there is no quorum present. The Chair will count.

Mr. COTHRAN subsequently withdrew his point that no quorum was present.

The bill as amended was ordered to a third reading; and was accordingly read the third time, and passed.

The SPEAKER. It is suggested that the title of the bill be amended.

Mr. LEE. Let that be done.

The SPEAKER. By unanimous consent, the title of the bill will be amended to conform to the text of the bill. The Clerk will report the title of the bill as amended.

The Clerk read as follows:

A bill to authorize the Norfolk and Western Railroad Company of Virginia to extend its line of road into and within the District of Columbia, and for other purposes.

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

The latter motion was agreed to.

BRIDGE ACROSS PORTAGE LAKE, HOUGHTON COUNTY, MICHIGAN.

The SPEAKER laid before the House the following Senate bill:

A bill (S. 4939) giving the consent of the United States to the erection of a bridge across Portage Lake, Houghton County, Michigan, between the villages of Houghton and Hancock.

Mr. STOCKBRIDGE. I ask unanimous consent that the reading of that bill may be dispensed with. It is identical with a House bill favorably reported and upon the Calendar. It contains all the usual safeguards and provisions customary in bridge bills as to right of way to the Government, the repealing clause, telegraph matters, and so forth.

The SPEAKER. The gentleman from Maryland asks unanimous consent that the reading of the bill may be dispensed with. Is there objection? [After a pause.] The Chair hears none.

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

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

The latter motion was agreed to.

By unanimous consent, the corresponding House bill was ordered to lie upon the table.

BOOKMAKING AND POOL SELLING, DISTRICT OF COLUMBIA.

The SPEAKER laid before the House the following Senate bill:

A bill (S. 5100) to prevent bookmaking and pool selling in the District of Columbia.

The Clerk read as follows:

Be it enacted, etc., That it shall be unlawful for any person or association of persons in the cities of Washington and Georgetown, in the District of Columbia, or within said District within 1 mile of the boundaries of said cities, to bet, gamble, or make books or pools on the result of any trotting race or running race of horses, or boat race, or race of any kind, or on any election, or any contest of any kind, or game of baseball.

Sec. 2. That any person or association of persons violating the provisions of this act shall be fined not exceeding \$500, or be imprisoned not more than ninety days, or both, at the discretion of the court.

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

A PORT OF DELIVERY AT ENFIELD, CONN.

The SPEAKER also laid before the House the bill (S. 5044) to make Enfield, Conn., a port of delivery in the district of Hartford, with amendments of the House disagreed to.

Mr. BRECKINRIDGE, of Kentucky. I move that the House adjourn.

The SPEAKER. The gentleman from California.

DEATH OF HON. GEORGE HEARST.

Mr. CLUNIE. Mr. Speaker, the sad duty has been assigned to me by my colleagues from California of announcing to this House the death of Hon. George Hearst, late a Senator from California, at his residence in this city at ten minutes past 9 o'clock this evening. At his bedside, prostrate with grief, were his devoted and loving wife and his only son. He lived, Mr. Speaker, the three score and ten years allotted to the favored few and passed away silently and without pain.

I had the honor of knowing him a great many years. I knew him well and intimately, and I may say truthfully that no man possessed a stronger hold on the hearts of the people of California than the Hon. George Hearst, and no man could have been taken from our midst who will be missed more by the masses of the people of that State.

He left the good State of Missouri in pioneer days and crossed the plains and helped to carve out the destinies of the great State of California. All of her material resources found in him an able advocate and a warm supporter. There is no industry in California in which Mr. Hearst did not interest himself. He started in, Mr. Speaker, mining with a pick and shovel. He continued in the calling until at the time of his death five thousand men were in his employ.

During all his long career in that State no man ever accused Senator Hearst of one dishonest act. I have walked by his side on many occasions. I have seen him approached by broken-down old miners. He would stop at their request, and, with tears in his eyes, would put his hand in his pocket and furnish them relief. He was as gentle as a woman, and a kind and devoted husband, a loving father, and a sincere, good friend; and I can say without fear of contradiction that no man in our great State did more in a quiet, unostentatious manner to relieve distress in California, and in fact several other States and Territories where his extensive interests called him, than did Senator Hearst.

The people of our State, differing from him politically, when his name was suggested for the high office of United States Senator, reversed a Republican majority of forty on joint ballot in the California Legislature and gave us a Democratic majority of eleven, elevating him to the exalted position of United States Senator.

Every Senator was his friend. I could name a score of his colleagues who have told me that no Senator could be simply saying "This bill is right, I want it passed," get as many votes for a measure as Senator George Hearst. By his death California has lost an able representative, his loving wife a devoted husband, his only son a kind and indulgent father.

No man could talk with Senator Hearst without going away from him feeling that he had learned something; and I regret, Mr. Speaker, that at this late hour I can not do justice to his many virtues, nor speak of the great enterprises he inaugurated and carried to a successful issue; but I presume under the practice of the House that some

fitting time will be set apart and opportunity offered his friends to pay tribute to his memory.

In closing, Mr. Speaker, I desire that the resolutions passed by the Senate be read, after which I will offer, when my colleague [Mr. McKenna] is through, should he desire to make any remarks, the resolutions which I hold in my hand.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES, February 28, 1891.

Resolved, That the Senate has heard with great sorrow of the death of the honorable George Hearst, late a Senator from the State of California.

Resolved, That a committee of nine Senators be appointed by the Presiding Officer to take order for superintending the funeral of Mr. Hearst.

Resolved, That, as a further mark of respect entertained by the Senate for his memory, his remains be removed from Washington to California in charge of the Sergeant-at-Arms and attended by the committee, who shall have full power to carry this resolution into effect.

Resolved, That the Secretary communicate these proceedings to the House of Representatives, and invite the House of Representatives to attend the funeral and to appoint a committee to act with the committee of the Senate.

Resolved, That as a further mark of respect the Senate do now adjourn.

The Presiding Officer appointed Mr. STANFORD, Mr. VANCE, Mr. VEST, Mr. HOAR, Mr. SAWYER, Mr. BATE, Mr. BERRY, Mr. STOCKBRIDGE, and Mr. BARBOUR as said committee.

Mr. MCKENNA. Mr. Speaker, Senator Hearst had been sick for some time; but his friends entertained hopes of his recovery. The announcement of his death, therefore, comes to us with surprise and with deepest sorrow. Hereafter I may display to the House the elements of good and of good example with which his character and life abounded. I will not delay to do so now.

Mr. Hearst was a practical man, able in business and affairs, and attained eminence in both—eminence in fortune, eminence with his fellow-men—dying a United States Senator. He was a gentleman in the best sense of that much-abused word, courteous and considerate to everybody, and, as my colleague has said, no man in the State of California had more friends than George Hearst, nor deserved or justified their friendship more. His death will be mourned by them and by his State sincerely, profoundly, and lastingly.

The SPEAKER. The Clerk will read the resolutions.

The Clerk read as follows:

Resolved, That the House has heard with great sorrow the death of Hon. George Hearst, late a Senator from the State of California.

Resolved, That a committee of nine members of the House be appointed by the Speaker to act in conjunction with the Senate committee to make necessary arrangements to accompany the remains to the place of burial.

The SPEAKER. The Chair will appoint the committee later, with the permission of the House. The Clerk will read the last resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect the House do now adjourn.

The resolutions were unanimously agreed to; and accordingly (at 12 o'clock and 52 minutes a. m., Sunday, March 1) the House adjourned until Monday, March 2, at 10 a. m.

EXECUTIVE AND OTHER COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following communications were taken from the Speaker's table and referred as follows:

BLACK RIVER, SOUTH CAROLINA.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a copy of the report of the examination and survey of Black River, South Carolina—to the Committee on Rivers and Harbors.

JAMES B. RUSSELL, EXECUTOR OF SAMPSON TOUCHSTONE, VS. THE UNITED STATES.

Letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of James B. Russell, executor of Sampson Touchstone, against the United States—to the Committee on War Claims.

OFFICIAL EMOLUMENTS OF OFFICERS IN THE CUSTOMS SERVICE.

Letter from the Acting Secretary of the Treasury, submitting an abstract of the official emoluments of officers in the customs service received by them during the fiscal year ended June 30, 1890—to the Committee on Expenditures in the Treasury Department.

INTERNATIONAL STORM SIGNALS.

Letter from the Secretary of War, transmitting a report of the Chief Signal Officer of the Army, and a copy of a draught of a bill pertaining to international storm signals according to the recommendation of the International Marine Conference—to the Committee on Commerce.

PAMLICO RIVER, NORTH CAROLINA.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a copy of a report of the examination and survey of the harbor of Washington, Pamlico River, North Carolina—to the Committee on Rivers and Harbors.

IRRIGATION AND WATER STORAGE IN THE ARID REGIONS.

Letter from the Secretary of War, transmitting a report of the Chief Signal Officer of the Army in response to House resolution dated May 23, 1890, relating to irrigation and water storage in the arid regions—to the Select Committee on Irrigation of Arid Lands in the United States.

MEMORIALS AND RESOLUTIONS OF STATE LEGISLATURES.

Under clause 3 of Rule XXII, the following State memorials and resolutions were presented and referred as follows:

By Mr. SNIDER: Joint resolution of the Legislature of the State of Minnesota, protesting against the guaranty of bonds by the United States for construction of the Nicaragua Canal—to the Committee on Foreign Affairs.

By Mr. TOWNSEND, of Colorado: Memorial of the General Assembly of the State of Colorado, praying Congress to donate to the State of Colorado, for a home for disabled miners, 320 acres of the Fort Crawford military reservation and the buildings thereon situated—to the Committee on the Public Lands.

Also (by request), memorial of the General Assembly of the State of Colorado, praying Congress to set apart a portion of the Fort Crawford military reservation for the State of Colorado, to be used as a home for disabled miners—to the Committee on the Public Lands.

By Mr. BRICKNER: Joint resolution of the assembly and senate of the State of Wisconsin, protesting against the passage of Senate bill No. 4962, an act to authorize the Minnesota Boom Company to construct and operate booms and other structures in certain sloughs of the Mississippi River and to drive and sheer into such booms logs, timber, and lumber found in said river—to the Committee on Commerce.

By Mr. HALL: Joint resolution from the Legislature of Minnesota, relating to the canal proposed to be built through Panama and Darien—to the Committee on Commerce.

By Mr. CARTER (by request): Memorial of the Legislative Assembly of Montana, concerning the Crow Indian treaty—to the Committee on Indian Affairs.

SENATE RESOLUTIONS REFERRED.

Under clause 2 of Rule XXII, the following Senate resolution was taken from the Speaker's table and referred as follows:

Resolved by the Senate (the House of Representatives concurring therein), That the Committee on Public Printing, with two members of the present House of Representatives who are re-elected to the next Congress, to be appointed by the Speaker of the House of Representatives, or any subcommittee of said special joint committee, are hereby instructed to examine into the numbers printed of the various documents, reports, bills, and other papers published by order of Congress, or of either House thereof, and of the CONGRESSIONAL RECORD, and to report a bill in December next, making such reductions in the numbers and cost of printing, and such changes and reduction in the distribution of said publications as they may deem expedient, with a report giving their reasons therefor; and that the said committee is also instructed to investigate the printing and binding for the Executive Departments, executed at the Government Printing Office and at the branch printing offices and binderies in the various Departments, and report a bill in December next making such reductions in expenses and imposing such checks as they may deem expedient, with a report giving their reasons therefor; and said committee is further instructed to make any other investigation calculated in their opinion to reduce the cost of the public printing, and report the result thereof; and the said committee is hereby authorized to employ a stenographer, to summon and to examine experts and witnesses, and to call upon the heads of Executive Departments and the Public Printer for such information regarding the preceding matters as they may desire; and any expenses necessarily incurred in making the investigations aforesaid shall be defrayed from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee on Printing;

to the Committee on Printing.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, a Senate bill of the following title was taken from the Speaker's table and referred as follows:

A bill (S. 5110) to provide for the purchase of a site and the erection of a public building thereon at Philadelphia, in the State of Pennsylvania—to the Committee on Public Buildings and Grounds.

REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII, reports of committees were delivered to the Clerk and disposed of as follows:

Mr. HAUGEN, from the Select Committee on Ventilation and Acoustics, to which was referred the following resolution of the House:

Resolved, That the Committee on Ventilation and Acoustics be, and they are hereby, directed to examine and report without delay upon the practicability and cost of removing the partition and galleries on the south side of the Hall of the House of Representatives, so as to include the present lobby passage within the bar of the House, thereby obtaining additional floor room for the Hall and the benefit of additional light and ventilation on the south side;

reported the same favorably; which, accompanied by a report (No. 4021), was referred to the Committee of the Whole House on the state of the Union.

Mr. MILLIKEN, from the Committee on Public Buildings and Grounds, reported favorably the bill of the Senate (S. 4224) for the erection of a new customhouse in the city of New York, and for other purposes, accompanied by a report (No. 4022)—to the Committee of the Whole House on the state of the Union.

Mr. BELKNAP, from the Committee on Invalid Pensions, reported favorably the following bills of the House; which were severally referred to the Committee of the Whole House:

A bill (H. R. 11890) granting a pension to Phoebe A. Sisson. (Report No. 4023.)

A bill (H. R. 11633) granting a pension to Ellen Goff. (Report No. 4024.)

Mr. DARLINGTON, from the Committee on Public Buildings and Grounds, reported favorably the bill of the Senate (S. 5110) to provide for the purchase of a site and the erection of a public building thereon at Philadelphia, in the State of Pennsylvania, accompanied by a report (No. 4025)—to the Committee of the Whole House on the state of the Union.

Mr. HERMANN, from the Committee on Rivers and Harbors, reported with amendment the bill of the Senate (S. 3473) making appropriations for the improvement of the Columbia River, accompanied by a report (No. 4026)—to the Committee of the Whole House on the state of the Union.

Mr. MORRILL, from the Committee on Invalid Pensions, reported with amendment the bill of the Senate (S. 390) to amend paragraph 3 of section 4693 of the Revised Statutes, and for other purposes, accompanied by a report (No. 4027)—to the House Calendar.

Mr. BARTINE, in behalf of the minority of the Committee on Coinage, Weights, and Measures, to which was referred the bill of the Senate (S. 4675) to provide a unit of value and for the coinage of gold and silver, and for other purposes, submitted their views in writing thereon; which were ordered to be printed as Part 2 of Report No. 3967.

Mr. EZRA B. TAYLOR, from the Committee on the Judiciary, reported favorably the bill of the Senate (S. 4924) to provide the times and places for holding terms of the United States courts in the State of Idaho, accompanied by a report (No. 4028)—to the House Calendar.

Mr. RUSSELL, from the Committee on Printing, reported favorably the joint resolution of the House (H. Res. 294) for the purchase, printing and distribution of the parliamentary history of the Congress of the United States, accompanied by a report (No. 4029)—to the Committee of the Whole House on the state of the Union.

BILLS AND JOINT RESOLUTIONS.

Under clause 3 of Rule XXII, a joint resolution of the following title was introduced, read twice, and referred as follows:

By Mr. MOREY: A joint resolution (H. Res. 295) directing the Secretary of War to furnish certain information touching the battlefield of Antietam—to the Committee on Military Affairs.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills of the following titles were presented and referred as indicated below:

By Mr. BIGGS: A bill (H. R. 13863) for the relief of M. B. Root—to the Select Committee on Indian Depredation Claims.

By Mr. CALDWELL: A bill (H. R. 13864) to remove charge of desertion from Jacob Henry Clause—to the Committee on Military Affairs.

Also, a bill (H. R. 13865) to remove the charge of desertion from John Gleason—to the Committee on Military Affairs.

By Mr. CLARK, of Wyoming: A bill (H. R. 13866) for the relief of Morton E. Post—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13867) for the relief of A. H. Reel—to the Select Committee on Indian Depredation Claims.

By Mr. CRAIN: A bill (H. R. 13868) for the relief of Minter Truitt—to the Select Committee on Indian Depredation Claims.

By Mr. EVANS (by request): A bill (H. R. 13869) for the relief of Asa Faulkner, McMinnville, Tenn.—to the Committee on War Claims.

Also, a bill (H. R. 13870) for relief of Rome Haynes, Company E, Seventeenth Regiment United States Colored Infantry—to the Committee on Military Affairs.

By Mr. GEARY: A bill (H. R. 13871) for the relief of Smith Fulmer—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13872) for the relief of the legal representatives of William B. Hagans—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13873) for the relief of Gustave Mueller—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13874) for the relief of Mrs. Saunders or other legal representatives of Luke Woodberry Saunders—to the Select Committee on Indian Depredation Claims.

By Mr. GIFFORD: A bill (H. R. 13875) for the relief of Charles Richard—to the Select Committee on Indian Depredation Claims.

By Mr. HEARD: A bill (H. R. 13876) for the relief of Mrs. Maggie Mattox—to the Select Committee on Indian Depredation Claims.

By Mr. JOSEPH: A bill (H. R. 13877) for the relief of Manuel Sanchez y Castro, of Peralta, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13878) for the relief of William Crane, of Coolidge, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13879) for the relief of Joseph N. Durand, of Las Palomas, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13880) for the relief of Manuel Salazar y Guinez, of Tome, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13881) for the relief of Juan A. Martinez, of Abiquiu, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13882) for the relief of the legal representatives of José Antonio Otero, of Peralta, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13883) for the relief of Manuel R. Otero of Peralta, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13884) for the relief of Desiderio Pino, of Socorro, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13885) for the relief of Francisco Rael, of Anton Chico, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13886) for the relief of José Sabedna, of Socorro, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13887) for the relief of Filomero Sanchez, of Belen, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13888) for the relief of Marcellino Sanchez, of Belen, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13889) for the relief of Ramon Sanches, of Grant, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13890) for the relief of J. L. Telles, of Grant, N. Mex.—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13891) for the relief of Antonio A. Vigil, of Española, N. Mex.—to the Select Committee on Indian Depredation Claims.

By Mr. LEWIS: A bill (H. R. 13892) to increase the pension of W. G. Carson—to the Committee on Invalid Pensions.

By Mr. MCCREARY: A bill (H. R. 13893) for the relief of the heirs of Mrs. Joana E. Leathers—to the Committee on War Claims.

By Mr. MORROW: A bill (H. R. 13894) for the relief of Henley Brothers—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13895) for the relief of Martin Corbitt—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13896) for the relief of E. S. Gibson—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13897) for the relief of Andrew Grey—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13898) for the relief of Sanders Hornbrook—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13899) for the relief of Ira C. Hoxie—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13900) for the relief of Dryden Laycock—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13901) for the relief of George E. White—to the Select Committee on Indian Depredation Claims.

By Mr. SMITH, of Arizona: A bill (H. R. 13902) for the relief of James Allen—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13903) for the relief of James M. Barney—to the Select Committee on Indian Depredation Claims.

Also, a bill (H. R. 13904) for the relief of Solomon Warner—to the Select Committee on Indian Depredation Claims.

By Mr. TOWNSEND, of Colorado: A bill (H. R. 13905) for the relief of William J. Godfrey—to the Select Committee on Indian Depredation Claims.

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. CALDWELL: Petition of John Gleason, to remove charge of desertion—to the Committee on Military Affairs.

Also, papers in the case of Jacob Henry Clance, to correct military record—to the Committee on Military Affairs.

By Mr. CRAIG: Memorial of Grange No. 77, Jefferson County, Pennsylvania, for silver coinage, etc.—to the Committee on Coinage, Weights, and Measures.

By Mr. EVANS: Petition of Roman Haynes, late Company E, Seventeenth United States Colored Troops, to have charge of desertion removed and military record corrected—to the Committee on Military Affairs.

By Mr. HALL: Petition of the Alliance of Scott County, Minnesota, favoring the option bill—to the Committee on Agriculture.

By Mr. EDWARD R. HAYS: Petition of citizens of Madison County, Iowa, urging the passage of a law giving to States the right to regulate the sale of oleomargarine, butterine, etc.—to the Committee on the Judiciary.

Also, petitions of citizens of Polk County, Iowa, in favor of House bill 2157—to the Committee on the Judiciary.

By Mr. KETCHAM: Petition of the Poughkeepsie Indian Association, of New York, for application of civil-service rules to Indian affairs—to the Select Committee on Reform in the Civil Service.

By Mr. LAWS: Petitions of 284 citizens of Nebraska, urging passage of House bill 5353—to the Committee on Agriculture.

By Mr. LIND: Papers and affidavits in the case of J. Slocum, to ac-

company House bill 2108—to the Select Committee on Indian Depredation Claims.

By Mr. McCOMAS: Petition of George Line, for relief—to the Committee on War Claims.

By Mr. McRAE: Resolutions of the Chamber of Commerce, Fort Smith, Ark., asking the opening of the Cherokee Strip to settlers—to the Committee on Indian Affairs.

By Mr. RANDALL: Resolutions of the New Bedford (Mass.) Board of Trade, against the free coinage of silver—to the Committee on Coinage, Weights, and Measures.

By Mr. WALLACE, of New York (at the request of Mr. REED, of Maine): Petition of the Department Encampment, State of New York, Grand Army of the Republic, for the passage of House resolution No. 8287—to the Select Committee on Reform in the Civil Service.

By Mr. WRIGHT: Memorial of the Woman's Christian Temperance Union of Susquehanna; also, of members of the Episcopal church of the same place; also, of Baptist church of same place, Pennsylvania, in favor of closing the World's Fair on Sunday—to the Select Committee on the Quadro-Centennial of the Discovery of America.

SENATE.

MONDAY, *March 2, 1891.*

The Senate met at 9 o'clock and 30 minutes a. m.

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

The Journal of the proceedings of Saturday last was read and approved.

DEATH OF ADMIRAL PORTER.

The VICE PRESIDENT. The Chair has received a letter from the family of the late Admiral Porter, which will be read.

The Chief Clerk read the letter, and it was ordered to lie on the table, as follows:

WASHINGTON, D. C. *February 28, 1891.*

SIR: The sincere thanks of the family of Admiral Porter are tendered to the Senate of the United States for the resolutions passed on the 14th instant.

Their honorable tribute to the life and services of the Admiral and their expression of sympathy for those who most keenly feel his loss are very highly and gratefully appreciated.

For the family,

THEODORIC PORTER.
RICHARD B. PORTER.

Hon. LEVIE P. MORTON,

Vice President of the United States and President of the Senate.

HOUSE BILLS REFERRED.

The bill (H. R. 4842) for the relief of John C. Phillips was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. 2211) for the relief of R. F. Harrison was read twice by its title, and referred to the Committee on Claims.

COINAGE COMMITTEE REPORT.

The VICE PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives (the Senate concurring). That 10,000 copies of the testimony taken before the Committee on Coinage, Weights, and Measures, with the accompanying report, No. 3967, be printed, 6,000 copies to be for the use of the House of Representatives and 4,000 copies for the use of the Senate.

CREDENTIALS.

The VICE PRESIDENT presented the credentials of James Henderson Kyle, chosen by the Legislature of South Dakota a Senator from that State for the term beginning March 4, 1891; which were read, and ordered to be filed.

Mr. COLQUITT presented the credentials of John B. Gordon, chosen by the Legislature of Georgia a Senator from that State for the term beginning March 4, 1891; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the Legislature of Montana, praying for the passage of the bill providing for the ratification of the Crow Indian treaty; which was ordered to lie on the table.

He also presented a joint resolution of the Legislature of South Dakota, favoring certain legislation relative to tree claims in that State; which was referred to the Committee on Public Lands.

He also presented a memorial of the Transmississippi Commercial Congress, setting forth the object of that congress and its views and recommendations with reference to the improvement of Galveston and other Gulf harbors, rates of transportation to those harbors, free coinage of silver, reclamation of arid lands, settlement of Indian reservations, reciprocal arrangement with South and Central American countries, and the chartering of corporations running American vessels in foreign trade; which was ordered to lie on the table.

He also presented a petition of the Mechanics and Traders' Exchange, of New York City, praying for the passage of the Torrey bankruptcy bill; which was ordered to lie on the table.

Mr. TELLER presented a petition of citizens of Ouray County,

Colorado, praying for the granting of certain land for a miners' home in Colorado; which was referred to the Committee on Public Lands.

Mr. SHERMAN presented a petition numerously signed by citizens of Muskingum County, Ohio, praying for the immediate enactment of a law applying to the traffic in original packages of oleomargarine; which was ordered to lie on the table.

He also presented the petition of George W. Rosenberger, of New Market, Shenandoah County, Virginia, praying to be reimbursed for property purchased of him during the late war for the use of the United States Army; which was referred to the Committee on Military Affairs.

Mr. CAMERON presented the following petitions, praying for the restoration of silver to its constitutional place as a money metal, with the same rights of coinage and legal tender as is now accorded to gold; which were ordered to lie on the table:

Petition of Grange No. 467, Patrons of Husbandry, of Warren County, Pennsylvania;

Petition of Grange No. 947, Patrons of Husbandry, of Erie County, Pennsylvania;

Petition of Grange No. 821, Patrons of Husbandry, of Tioga County, Pennsylvania;

Petition of Grange No. 54, Patrons of Husbandry, of Tioga County, Pennsylvania;

Petition of Grange No. 961, Patrons of Husbandry, of Huntingdon County, Pennsylvania;

Petition of Grange No. 797, Patrons of Husbandry, of Northumberland County, Pennsylvania;

Petition of Grange No. 52, Patrons of Husbandry, of Columbia County, Pennsylvania;

Petition of Grange No. 990, Patrons of Husbandry, of Wayne County, Pennsylvania;

Petition of Grange No. 924, Patrons of Husbandry, of Susquehanna County, Pennsylvania; and

Petition of Grange No. 706, Patrons of Husbandry, of Clearfield County, Pennsylvania.

Mr. CAMERON presented the petition of Rauh Brothers & Co., George G. McMurty, Penwick, Ellis & Co., and J. J. Vadergrift, of Pittsburgh, Pa., praying for the passage of the Torrey bankruptcy bill; which was ordered to lie on the table.

He also presented petitions of Councils, Junior Order United American Mechanics, Nos. 59, 363, of Hazelton, Valley View, and Suterville, in the State of Pennsylvania, praying for the passage of a bill to restrict immigration; which were ordered to lie on the table.

He also presented a petition of the Muddy Creek Congregation, of Butler County, Pennsylvania, praying for the passage of the bill to prohibit the opening on Sunday of any exhibition or exposition where appropriations of the United States are expended; which was referred to the Select Committee on the Quadro-Centennial.

He also presented a petition of the Producers' Protective Association of Bradford, Pa., praying for the adoption of certain amendments to the interstate-commerce law; which was referred to the Committee on Interstate Commerce.

Mr. TURPIE presented a petition of sundry citizens of Griffin, Ga., praying for the passage of the invalid-pension bill; which was ordered to lie on the table.

Mr. VEST presented the petition of J. M. Waters and other citizens of Claysville, Mo., and the petition of Charles Gregory & Co. and other citizens of Malden, Mo., praying for the passage of the Torrey bankruptcy bill; which were ordered to lie on the table.

Mr. REAGAN presented a petition of William Herman, president of the Board of Trade of San Antonio, Tex., praying for the passage of the Torrey bankruptcy bill; which was ordered to lie on the table.

Mr. CULLOM presented petitions of District Assemblies Nos. 3577, 325, 550, 1889, 3117, 2299, 967, and 1499, of the Farmers' Mutual Benefit Association, of Illinois, praying for the passage of the Paddock pure-food bill; which were ordered to lie on the table.

He also presented the following petitions praying for the passage of the Conger lard bill; which were ordered to lie on the table:

Petition of citizens of Jersey County, Illinois;

Petition of A. Harris and 41 other citizens of Radom, Ill.;

Petition of Randal Lodge, No. 267, of Illinois; and

Petition of citizens of Sparta, Ill.

Mr. CULLOM presented a petition of citizens of Upper Alton, Ill., and a petition of citizens of Scottsville, Ill., praying for the passage of the Torrey bankruptcy bill; which were ordered to lie on the table.

He also presented a memorial of the Farmers' Alliance and Industrial Union No. 901, of the State of Kansas, and a memorial of the Farmers' Alliance and Industrial Union, No. 2273, of the State of Kansas, remonstrating against the passage of the Conger lard bill; which were ordered to lie on the table.

He also presented a petition of the executive committee of the Illinois State Grange, praying for the passage of the Conger lard bill, the pure-food bill, and the Butterworth bill to prohibit dealing in options; which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of the Reformed Presbyterian Congregation of Oakdale, Ill., remonstrating against any exhibition on the