of Boone, Iowa, in behalf of the transmississippi and international exposition at Omaha—to the Committee on Ways and Means.

By Mr. HAINER of Nebraska: Petition of J. T. McKnight, of Brainard, Nebr., praying for favorable action on House bills Nos. 4566 and 838, to amend the postal laws—to the Committee on the Post-Office and Post-Roads.

By Mr. HATCH: Petition of citizens of Francisville, Ind., in favor of bills Nos. 4566 and 838, to amend the postal laws—to the Committee on the Post-Office and Post-Roads.

By Mr. HEINER of Pennsylvania: Petition of 200 citizens of Armstrong County, Pa., asking for the passage of House bill No. 2626, for the protection of agricultural staples by an export bounty to equalize the benefits and burdens of the protective system—to the Committee on Ways and Means.

By Mr. HEPBURN: Petition of L. A. Hill and others, of Tabor, Iowa, praying for favorable action on House bills Nos. 4566 and 838, to amend the postal laws—to the Committee on the Post-Office and Post-Roads.

By Mr. HYDE: Petitions of citizens of Spokane, Spangle, and Lyman, State of Washington, against permitting the statue of Père Marquette to remain in Statuary Hall—to the Committee on the Library.

Also, petition of citizens of La Camas, Wash., favoring the passage of the Stone immigration bill—to the Committee on Immigration and Naturalization.

By Mr. JENKINS: Petition of G. A. Sherwood and 41 others, of Emerald, Wis., for the removal of the statue of Marquette from Statuary Hall—to the Committee on the Library.

By Mr. KIEFER: Petition of the Minnesota State Historical Society, in favor of the Crandall bill, relating to public documents—to the Committee on Printing.

By Mr. KIRKPATRICK: Petitions of J. M. Cavaness, C. E. Moore, Adrian Reynolds, F. W. Frye, W. M. Jones, F. M. Hartley, and W. M. Graves, favoring the passage of House bill No. 4566, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. LAYTON: Resolutions of the New York Board of Trade and Transportation, asking for the enactment of a national bankruptcy law, known as the Torrey bill—to the Committee on the Judiciary.

By Mr. LINTON: Remonstrance and petition of citizens of New Chicago, Ill.; also of citizens of Millburn, Ill., respecting the Marquette statue—to the Committee on the Library.

Also, petition of E. C. Van Ness, of Owosso, Mich., praying for favorable action on House bills Nos. 838, 4566, and 5560, to provide 1-cent letter postage per half ounce, and to amend the postal laws relating to second-class and free matter—to the Committee on the Post-Office and Post-Roads.

By Mr. LOUD: Petition of merchants, manufacturers, and shippers; also petition of shipowners; also petition of marine insurance companies, all of San Francisco, Cal., for improvements in the harbor of San Francisco—to the Committee on Interstate and Foreign Commerce.

Also, petition of H. F. Samford, of Chicago, Ill., praying for favorable action on House bills Nos. 838, 4566, and 5560, to provide 1-cent letter postage per half ounce, and to amend the postal laws relating to second-class and free matter—to the Committee on the Post-Office and Post-Roads.

By Mr. McCALL of Massachusetts: Resolutions of the Boston Merchants' Association, in favor of a national bankruptcy law—to the Committee on the Judiciary.

Also, resolutions of the Boston Merchants' Association, in favor of the establishment of a department of commerce and manufactures—to the Committee on the Judiciary.

By Mr. McCREARY of Kentucky: Petition of Thomas W. Caldwell, to accompany House bill for his relief—to the Committee on Military Affairs.

By Mr. McCORMICK: Petition of Railroad Branch, Young Men's Christian Association of Long Island City, N. Y., asking for favorable action on House bills Nos. 838, 4566, and 5560, to provide 1-cent letter postage per half ounce, and to amend the postal laws relating to second-class matter—to the Committee on the Post-Office and Post-Roads.

By Mr. MERCER: Resolutions of South Omaha Stock Exchange, of Omaha, Nebr.; also of Black Hills Improvement Company, of Hot Springs, S. Dak.; also of city councils of Fremont, Plattsmouth, and Chadron, of the State of Nebraska, in favor of the transmississippi exposition at Omaha—to the Committee on Ways and Means.

By Mr. MILNES: Petition of Julia A. Mumford and others, favoring the passage of House bill No. 2626, for the protection of agricultural staples by an export bounty—to the Committee on Ways and Means.

By Mr. MORSE: Petition of the Reformed Presbyterian Church of Wahoo, Nebr., in favor of Sunday-rest law for the District of Columbia—to the Committee on the District of Columbia.

By Mr. NORTHWAY: Petition of 14 citizens of Ohio, praying for the passage of House bill No. 6851, appropriating unclaimed pension and bounty money due the estates of deceased colored soldiers to military and educational purposes for the colored people—to the Committee on Military Affairs.

By Mr. PERKINS: Petition of H. H. Crow and others, of Paullina, Iowa, praying for favorable action on House bill No. 4566, to amend the postal laws relating to second-class matter; also in favor of bill No. 838, to reduce letter postage to 1 cent per half ounce—to the Committee on the Post-Office and Post-Roads.

By Mr. PHILLIPS: Petition of the Young Men's Christian Association of Butler, Pa., by J. B. Caruthers, secretary, asking favorable action on House bills Nos. 838, 4566, and 5560, to provide 1-cent letter postage per half ounce and to amend the postal laws relating to second-class and free matter—to the Committee on the Post-Office and Post-Roads.

By Mr. ROYSE: Petition of Jasper E. Lewis and 138 other veterans of the Union Army, citizens of South Bend, Ind., favoring the passage of a service-pension bill granting $8 a month to honorably discharged soldiers of the late war—to the Committee on Invalid Pensions.

By Mr. SAUERHERING: Petition of 84 citizens of Wisconsin, in favor of the passage of a bill for the adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. SPALDING: Papers to accompany House bill to remove the charge of desertion from the record of Conrad Springer—to the Committee on Military Affairs.

By Mr. TERRY: Petition of the Press Publishing Company, of the State of Arkansas, praying for favorable action on House bills Nos. 838, 4566, and 5560, to provide 1-cent letter postage per half ounce, and to amend the postal laws relating to second-class and free matter—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS: Petition of Grange No. 37, Patrons of Husbandry, of Wayland, Allegan County, Mich., favoring the passage of House bill No. 2626, for the protection of agricultural staples by an export bounty—to the Committee on Ways and Means.

Also, petition of 50 citizens of Covert, Mich., against the acceptance of a statue of Père Marquette—to the Committee on the Library.

By Mr. TOWNE (by request): Petition of citizens of Morrison County, Minn., protesting against the statue of Père Marquette remaining in the Capitol of the United States—to the Committee on the Library

---

SENATE.

TUESDAY, *April 21, 1896.*

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on motion of Mr. WOLCOTT, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will, without objection, stand approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the requirements of the joint resolution approved April 10, 1896, directing the Secretary of War to prepare and submit estimates for the improvement of the harbor at Portland, Me., a letter from the Chief of Engineers, United States Army, upon the subject; which, with the accompanying papers, was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, in compliance with the requirements of the joint resolution approved April 18, 1896, directing the Secretary of War to cause to be prepared and submit a plan and estimate for the improvement of the Nebraska side of the Missouri River opposite Sioux City, Iowa, transmitting a report of the Chief of Engineers, United States Army, on the subject; which, on motion of Mr. ALLEN, was, with the accompanying papers, referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the requirements of the joint resolution approved April 18, 1896, a report of the Chief of Engineers, United States Army, upon the survey of the waterway connecting the waters of Puget Sound, at Salmon Bay, with Lakes Union and Washington; which, with the accompanying papers, was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of the Chamber of Commerce and Merchants' Exchange of Cincinnati, Ohio; a petition of the Paint, Oil, and Varnish Club of Chicago, Ill., and a petition of the Chamber of Commerce of Pittsburg, Pa., praying for the establishment of a department of commerce and manufactures; which were referred to the Committee on Commerce.

Mr. WILSON presented sundry memorials of citizens of the State of Washington, remonstrating against placing the statue of Père Marquette in Statuary Hall, and praying for its immediate removal; which were referred to the Committee on the Library.

Mr. McMILLAN presented the petition of Freeborn G. Smith and sundry other citizens of Washington, D. C., praying for the passage of Senate bill No. 1515, to incorporate the Columbia Telephone Company; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Manufacturers' Club of Detroit, Mich., praying for the speedy passage of the so-called Detroit bridge bill; which was ordered to lie on the table.

He also presented the petition of N. I. Moore and sundry other citizens of Moscow, Mich., praying for the passage of House bill No. 2626, providing for the protection of agricultural staples by an export bounty; which was referred to the Committee on Finance.

He also presented a petition of the Journeymen Stonecutters' Association of Sault Ste. Marie, Mich., praying for the passage of the so-called Allen bill, to prohibit convict labor on Government buildings; which was referred to the Committee on Education and Labor.

Mr. SEWELL presented a memorial of the Essex District Medical Society of Newark, N. J., remonstrating against the passage of Senate bill No. 1552, providing for the further prevention of cruelty to animals in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Methodist Episcopal Church of Elmer, N. J., a petition of the Presbyterian Church of Elmer, N. J., and a petition of the Methodist Episcopal Church of Cranbury, N. J., praying for the enactment of a Sunday-rest law for the District of Columbia; which were referred to the Committee on the District of Columbia.

He also presented the petition of C. T. Russell, president of the Tower Bible and Tract Society of the United States, praying that that society be accorded the same rights in the mails as other publishers of religious literature under the act of July 16, 1894; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WARREN presented a petition of the Board of Trade of Rawlins, Wyo., praying Congress to aid the transmississippi exposition to be held at Omaha, Nebr., in 1898; which was ordered to lie on the table.

Mr. GORMAN presented the memorial of S. P. Cook and sundry other citizens of Harford County, Md., remonstrating against the introduction of military training in the public schools of the country; which was referred to the Committee on Military Affairs.

He also presented the petition of Henry N. Rahn and sundry other citizens of Baltimore, Md., praying for the enactment of legislation giving to second-class mail matter, such as religious tracts, full advantage of the act of July 16, 1894; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of H. B. Hawkins, secretary of the Young Men's Christian Association of Hagerstown, Md., praying for the enactment of legislation to provide 1-cent letter postage per half ounce, and also to amend the postal laws relating to second-class and free mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KYLE presented a petition of the Young Men's Democratic Club of Massachusetts, praying for the adoption of a constitutional amendment permitting the election of United States Senators by a direct vote of the people; which was ordered to lie on the table.

Mr. HILL presented a resolution of the assembly of the State of New York, in favor of the passage of House bill No. 306, granting pensions to soldiers and sailors confined in so-called Confederate prisons; which was referred to the Committee on Pensions, and ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK, IN ASSEMBLY, *Albany, April 8, 1896.*

On motion of Mr. Maccabe—

"Whereas a bill is now before the Congress of the United States granting pensions to soldiers and sailors confined in so-called Confederate prisons;

"Whereas many officers, soldiers, sailors, and marines of the Federal Army and Navy were confined in so-called Confederate prisons for a great length of time, suffering unusual hardships and contracting diseases and disabilities difficult to fully prove under existing pension laws:

"Therefore, for the purpose of doing justice to a specially deserving class of surviving veterans of the war,

"*Be it resolved*, That the senators and representatives of the State of New York, in legislature assembled, believe in the justice and equity of House bill No. 306, to those that served our Government as prisoners of war during the war of the rebellion, and request the Senators and Representatives from this State in the Congress of the United States to use their influence in favor of the passage of said bill.

"*Resolved*, That copies of these resolutions, properly attested, be transmitted by the secretary of state to the presiding officers of both branches of Congress, and also to the Senators and Representatives in Congress from this State.

"By order of the assembly. A. E. BAXTER, *Clerk*."

STATE OF NEW YORK,
Office of the Secretary of State, ss:

I have compared the preceding copy of resolution with the original resolution on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole thereof.

Given under my hand and the seal of office of the secretary of state, at the city of Albany, this 7th day of April, in the year 1896.

JNO. PALMER, *Secretary of State.*

Mr. HILL presented a petition of the New York Board of Trade and Transportation, praying for the enactment of a national bankruptcy law; which was ordered to lie on the table.

He also presented a petition of the Mohawk Chapter of the Daughters of the American Revolution of New York, praying for the publication of the records and papers of the Continental Congress; which was referred to the Committee on the Library.

He also presented sundry memorials of the Woman's Christian Temperance Union of Shelby County, Ind., remonstrating against the sale of beer on Ellis Island, New York; which were referred to the Committee on Immigration.

Mr. ALLEN presented a petition of the New York Produce Exchange, praying for the passage of House bill No. 8008, regulating the manufacture and sale of filled cheese; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the city council of Stromsburg, Nebr., praying Congress to aid the transmississippi exposition to be held at Omaha, Nebr., in 1898; which was ordered to lie on the table.

He also presented a petition of the Tower Bible and Tract Society, of Allegheny, Pa., praying that they be granted the same privileges in the mails as other publishers of religious literature under the act of July 16, 1894; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. NELSON presented a petition of the General Synod of the Evangelical Church of the United States, praying for the appointment of an impartial national commission of inquiry to investigate and report upon the alcoholic liquor traffic; which was referred to the Committee on Education and Labor.

Mr. BRICE presented a petition of Encampment No. 124, Union Veteran Legion of the State Soldiers' Home of Erie County, Ohio, praying for the enactment of a per diem pension law; which was referred to the Committee on Pensions.

He also presented a petition of the Civil Engineers' Club of Cleveland, Ohio, praying for the adoption of a metric system of weights and measures; which was referred to the Committee on Finance.

He also presented a memorial of Erie Council, No. 92, Junior Order of American Mechanics, of Huron, Ohio, remonstrating against the appropriation of money for sectarian institutions; which was ordered to lie on the table.

He also presented a petition of the Board of Trade of Columbus, Ohio, praying for the enactment of legislation to secure better markets for grain, grain products, meats, and all manufactured products of the United States; which was referred to the Committee on Commerce.

He also presented a petition of the Chamber of Commerce of Cleveland, Ohio, praying for the establishment of a department of commerce and manufactures; which was referred to the Committee on Commerce.

He also presented a petition of Lodge No. 116, International Association of Machinists, of Lima, Ohio, and a petition of Marion Lodge, No. 90, International Association of Machinists, of Marion, Ohio, praying for an investigation into the treatment of employees of the Brooklyn (N. Y.) Navy-Yard and other navy-yards in the country; which were referred to the Committee on Naval Affairs.

He also presented a petition of Mount Lookout Auxiliary of the Woman's Home Missionary Society of Cincinnati, Ohio, praying for the abolishment of the sweat-shop system; which was referred to the Committee on Education and Labor.

He also presented a petition of the Journeyman Stonecutters' Association of Tiffin, Ohio, praying for the enactment of legislation prohibiting convict labor on public buildings; which was referred to the Committee on Education and Labor.

He also presented a petition of the Postal Clerks' Association, Fifth Division, Railway Mail Service, of Terrace Park, Ohio, praying for the passage of the so-called railway postal clerks' bill; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Young Men's Christian Association of Dayton, Ohio, praying for the enactment of legislation to provide 1-cent letter postage, and also to restrict second-class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Cleveland Journal of Medicine, of Cleveland, Ohio, remonstrating against the passage of the so-called Loud bill, increasing the rate on second-class postal matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Journeyman Stonecutters' Association of Canton, Ohio, praying for the enactment of legislation prohibiting convict labor on public buildings, and also for the restriction of second-class postal matter; which was referred to the Committee on Post-Offices and Post-Roads.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I am directed by the Committee on Finance to report an amendment to the bill (H. R. 886) to amend section

3255 of the Revised Statutes of the United States, concerning the distilling of brandy from fruits. I ask that the amendment be printed in connection with the bill, and give notice that at an early day I shall call up the bill for consideration.

The PRESIDENT pro tempore. Without objection, a new print of the bill will be ordered, to include the amendment now reported.

Mr. McMILLAN. I am directed by the Committee on the District of Columbia, to whom was referred the bill (H. R. 5790) to permit the Pintsch Compressing Company to lay pipes in certain streets in the city of Washington, to report it without amendment. I ask that the corresponding Senate bill on the Calendar be indefinitely postponed and that the bill just reported shall take its place.

The PRESIDENT pro tempore. If there be no objection, the bill (S. 2769) to permit the Pintsch Compressing Company to lay pipes in certain streets in the city of Washington will be postponed indefinitely and the bill just reported will take its place upon the Calendar.

Mr. McMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. 1782) providing for the appointment by the Commissioners of the District of Columbia of the trustees of the Industrial Home School, and for other purposes, reported it without amendment, and submitted a report thereon.

He also, from the Committee on Commerce, to whom was referred the amendment submitted by Mr. QUAY on the 20th instant, intended to be proposed to the sundry civil appropriation bill, the amendment providing for the establishment off Fire Island, New York, of a first-class light-vessel with steam fog signal, and appropriating the sum of $80,000 therefor, reported it without amendment, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. GALLINGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 4887) granting a pension to Sarah G. Ives; and

A bill (H. R. 4968) granting a pension to Helen A. Jackman, dependent daughter of Lieut. William Jackman, late of Company I, Fourteenth Regiment of Maine Volunteers.

Mr. GALLINGER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 2601) granting an increase of pension to Ambrose B. Carlton; and

A bill (S. 1898) granting a pension to Mrs. Marietta Hayes.

Mr. GALLINGER, from the Committee on Pensions, to whom were referred the following bills, submitted adverse reports thereon; which were agreed to, and the bills were postponed indefinitely:

A bill (H. R. 1634) to grant pension to William F. Good, Company L, Tenth Indiana Cavalry Volunteers; and

A bill (S. 1395) granting a pension to A. M. Bliss.

Mr. STEWART, from the Committee on Claims, to whom was referred the bill (S. 524) for the relief of Avery D. Babcock and wife, of Oregon, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1652) for the relief of the estate of Charles M. Roberts, deceased, reported it with an amendment, and submitted a report thereon.

Mr. VILAS, from the Committee on Pensions, to whom was referred the bill (S. 2637) granting a pension to Jane Christian Marye, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2414) granting a pension to Mrs. Mary E. Wyse, widow of Lieut. Col. F. O. Wyse, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. MITCHELL of Oregon, from the Committee on Claims, to whom was referred the bill (S. 2538) for the relief of the Portland Company of Portland, Me., reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2136) for the relief of Joel M. Bryan and Rebecca Bryan, deceased, by Joel M. Bryan, her administrator, asked to be discharged from its further consideration and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. BURROWS, from the Committee on Claims, to whom was referred the amendment submitted by Mr. HARRIS on the 10th instant, providing for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the Bowman Act, intended to be proposed to the sundry civil appropriation bill, reported it with amendments, submitting a report thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. 2817) for the relief of the Atlantic Works, of Boston, Mass., reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1181) to pay the heirs of the late John Roach, deceased, $330,151.42 for labor and material, dockage and detention, and occupation of yards and shops for the gunboats *Chicago*, *Boston*, and *Atlanta*, reported it without amendment, and submitted a report thereon.

Mr. SHOUP, from the Committee on Pensions, to whom was referred the bill (S. 527) for the relief of Margaret C. McKay, widow of the late Dr. William C. McKay, of Oregon, reported it with an amendment, and submitted a report thereon.

Mr. WARREN, from the Committee on Claims, to whom was referred the bill (S. 515) for the relief of Mrs. Ellen Sexton, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1010) for the relief of the owners and crew of the Hawaiian bark *Arctic*, reported it without amendment, and submitted a report thereon.

Mr. PALMER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 1185) granting a pension to Rachel Patton;

A bill (H. R. 1020) granting an increase of pension to Gilman Williams; and

A bill (H. R. 3189) to increase the pension of John S. Cochenour.

Mr. PALMER, from the Committee on Pensions, to whom was referred the bill (S. 1611) granting a pension to Clarissa E. Hobbs, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2645) granting a pension to Jane H. Vandever, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported adversely thereon; and the bills were postponed indefinitely:

A bill (S. 1791) granting an increase of pension to William H. Bennett; and

A bill (S. 1808) granting an increase of pension to George K. Morgan.

Mr. PEFFER. Some time ago I reported from the Committee on Pensions the bill (S. 1465) granting an increase of pension to Elijah A. Gilbert. The bill was accompanied simply by a statement recommending its passage. I now wish to file a supplemental report setting out the facts in connection with the claim. I ask that it may be printed and lie on the table.

The PRESIDENT pro tempore. The report will be printed under the rule.

Mr. CANNON, from the Committee on Pensions, to whom was referred the bill (S. 2342) granting a pension to Nancy E. Rowe, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. 2074) granting a pension to Sarah L. Hively, reported it with an amendment, and submitted a report thereon.

Mr. PRITCHARD, from the Committee on Pensions, to whom was referred the bill (S. 2763) granting a pension to Silas B. Hensley, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2529) for the relief of Sarah E. Catton, reported it with amendments, and submitted a report thereon.

Mr. HANSBROUGH, from the Committee on Pensions, to whom was referred the bill (H. R. 3606) granting a pension to French W. Thornhill, reported it without amendment, and submitted a report thereon.

Mr. PERKINS, from the Committee on Naval Affairs, to whom was referred the bill (H. R. 572) for the relief of James Duke, reported it without amendment, and submitted a report thereon.

Mr. CHANDLER, from the Committee on Naval Affairs, to whom was referred the amendment submitted by Mr. HILL on the 15th instant, providing for the construction of tide gates in the causeway across Wallabout Channel, Brooklyn, N. Y., intended to be proposed to the naval appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. BAKER, from the Committee on Pensions, to whom was referred the bill (H. R. 708) to increase the pension of Albert Ellis, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 491) granting an increase of pension to Francis Walsh, of Stockham, Nebr., reported it with an amendment, and submitted a report thereon.

Mr. GALLINGER. On the 14th of April the bill (H. R. 1181) for the relief of Maria E. Wilson was reported from the Committee on Pensions with an amendment, and on the next day it was recommitted to that committee. I am directed by the Committee on Pensions to report it back favorably with an amendment, as was recommended in the original report.

The PRESIDENT pro tempore. The bill will be placed on the Calendar.

Mr. MITCHELL of Wisconsin, from the Committee on Pensions, to whom was referred the bill (S. 2711) granting a pension to Ira Harris, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 989) to place the name of Fannie Kautz, widow of August V. Kautz, deceased, late brigadier-general, United States Army, retired, on the pension roll at the rate of $175 per month, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1124) granting an increase of pension to Albert B. Simpson, reported it with amendments, and submitted a report thereon.

Mr. MITCHELL of Oregon, from the Committee on the Judiciary, to whom was referred the joint resolution (S. R. 124) to facilitate the reorganization of the Northern Pacific Railroad Company, to secure to actual settlers the right to purchase at a price not exceeding $2.50 per acre the agricultural lands within its grant, and to prohibit said company or any successor company from giving by consolidation, sale, or other corporate action control of its railroad to any corporation, company, person, or association of persons owning, operating, or controlling a parallel or competing railroad, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the amendment submitted by himself on the 17th instant, intended to be proposed to the sundry civil appropriation bill, the amendment providing that any State having a claim or claims against the United States shall be given the right within one year to file a petition in the Court of Claims and have the same adjudicated and determined, reported it without amendment, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. BRICE, from the Committee on Pensions, to whom was referred the bill (S. 937) granting an increase of pension to Sarah E. Comly, widow of Maj. Clifton Comly, reported it with amendments, and submitted a report thereon.

PORTS OF DELIVERY IN COLORADO.

Mr. WOLCOTT. I am directed by the Committee on Finance, to whom was referred the bill (S. 2508) to establish customs ports of delivery at Pueblo, Durango, and Leadville, Colo., to report it favorably with an amendment. It is purely a local measure, recommended by the Treasury Department, having reference to the putting of the smelting works in different sections of the State of Colorado on an equality, so that they can all be bonded. I ask unanimous consent that the bill may be put upon its passage.

The PRESIDENT pro tempore. The bill will be read in full for the information of the Senate.

The Secretary read the bill, as follows:

Be it enacted, etc., That Pueblo, Durango, and Leadville, all in the State of Colorado, be, and are hereby, made customs ports of delivery, and attached to the port of Denver, in said State, with all the rights and privileges now accorded by law to said port of Denver, the surveyor of customs of which port shall supervise the customs business at said Pueblo, Durango, and Leadville in the same manner and to the same extent as at Denver.

Mr. CARTER. The bill relates to a subject which the Senator from Idaho [Mr. DUBOIS] has had in charge to some extent, and I ask that it may go over until he comes in.

Mr. WOLCOTT. I shall be very glad indeed to move to reconsider its passage if the Senator from Idaho has the slightest objection. The bill, I think, does not touch at all the subject to which the Senator from Montana refers. It puts the smelters at Pueblo and Durango on an equality with the smelters at Denver.

I will state to the Senator in a word that Colorado is in the customs district of New Orleans. The Department refuses to put employees at smelting works in Colorado except where there are ports of delivery. Colorado is not on the border, it is not on the seacoast, and therefore can not be made a collection district. The smelters at Denver, that being a port of delivery, are permitted to bond their warehouses. At these other points, 120 miles away, where they are on an equal footing, they are not permitted to bond, and to give this permission is the only effect of the bill.

If the Senator from Montana sees fit to object, of course I have nothing to say, but I shall not have the slightest objection to a motion to reconsider, and I will myself make the motion, if that is hereafter desired.

Mr. CARTER. I understand that a contention exists between the Senator from Colorado and the Senator from Idaho relative to the sampling of lead ores at the border in Government sampling works, which is contended for by the Senator from Idaho, and the sampling at bonded smelters throughout the States, which is contended for by the Senator from Colorado.

Mr. WOLCOTT. The Senator is stating a contention which never has arisen, never has been voiced, and never has been suggested except by himself. The only point involved is the one I have indicated. The Senator is entirely mistaken.

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

Mr. CARTER. I ask that the bill may be passed over until the Senator from Idaho comes in.

The PRESIDENT pro tempore. There is objection, and the bill will be placed on the Calendar.

Mr. CARTER subsequently said: Upon inquiry I ascertain that no objection exists to the bill reported by the Senator from Colorado [Mr. WOLCOTT] from the Committee on Finance, and I renew the request for unanimous consent for its present consideration.

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

The PRESIDENT pro tempore. The bill has been read in full to the Senate.

Mr. WOLCOTT. There is an amendment from the committee.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. The Committee on Finance report to add, at the end of the bill, the following as an additional section:

SEC. 2. And such other places in the State of Colorado as the Secretary of the Treasury may designate from time to time shall be ports of delivery, with all the privileges now accorded by law to the port of Denver, Colo., the surveyor of customs of which port shall supervise the customs business transacted at such places in the same manner and to the same extent as at Denver.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to establish customs ports of delivery at Pueblo, Durango, Leadville, and other places in Colorado."

MESSAGES AND PAPERS OF THE PRESIDENTS.

Mr. GORMAN. I am directed by the Committee on Printing, to whom was referred the joint resolution (H. Res. 170) to provide for the proper distribution of the publication entitled Messages and Papers of the Presidents, to report it with an amendment. I ask that the joint resolution may be considered at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution; which was read, as follows:

Resolved by the Senate and House of Representatives, etc., That the quotas of Senators, Members, and Delegates of the House Miscellaneous Document No. 210, second session Fifty-third Congress, being a compilation the title of which is "Messages and Papers of the Presidents," be delivered by the Public Printer, when printed and ready for distribution, to the Superintendent of Documents. That the Senators, Members, and Delegates of the Fifty-fourth Congress be, and are hereby, authorized to designate to the Superintendent of Documents the names of persons to whom their respective quotas of said document shall be sent from time to time as the volumes are published.

The amendment of the Committee on Printing was to add the following proviso:

Provided, That in the distribution to the Senate and House of Representatives the fraction in each case shall be delivered to the compiler: *And provided further*, That the Public Printer shall bind in black half Turkey morocco one copy for the use of each Senator, Member, and Delegate in the Fifty-fourth Congress.

The amendment was agreed to.

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

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

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

HANDBOOK OF EXPERIMENT STATION WORK.

Mr. GORMAN, from the Committee on Printing, to whom was referred the following concurrent resolution of the House of Representatives, reported it without amendment; and it was considered by unanimous consent, and agreed to:

Resolved by the House of Representatives (the Senate concurring), That there be printed 10,000 additional copies of Bulletin No. 15 of the Office of Experiment Stations of the Department of Agriculture, entitled Handbook of Experiment Station Work, of which 2,000 copies shall be for the use of the members of the Senate, 4,000 copies for the use of members of the House of Representatives, and 4,000 copies for the use of the Secretary of Agriculture.

COMMITTEE ON PACIFIC RAILROADS.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. GEAR January 30, 1896, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Pacific Railroads be, and is hereby, authorized, in the course of the inquiries which are being made, to employ a stenographer and messenger, and that the expenses of the same be paid from the contingent fund of the Senate.

STENOGRAPHER TO COMMITTEE ON INDIAN AFFAIRS.

Mr. JONES of Nevada. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by the Senator from South Dakota [Mr. PETTIGREW] February 12, 1896, to report it favorably without amendment, and I ask for its present consideration:

The resolution was read, as follows:

Resolved, That the Committee on Indian Affairs be, and is hereby, authorized to employ a stenographer, the expense of the same to be paid from the contingent fund of the Senate.

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

Mr. HILL. What is the object of the employment specified in the resolution?

Mr. PETTIGREW. I will state to the Senator from New York that I care nothing whatever about the resolution. I would just as soon have it go over or be rejected.

Mr. HILL. I do not care about objecting to it.

Mr. PETTIGREW. What the Committee on Indian Affairs needs is an assistant clerk. There is more work in the committee than one man can do. I have been hiring some one at my own expense during the entire session.

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

Mr. HARRIS. Is the resolution reported from the Committee to Audit and Control the Contingent Expenses of the Senate?

The PRESIDENT pro tempore. It is reported from that committee. Is there objection to its present consideration?

The resolution was considered by unanimous consent, and agreed to.

HEARING BEFORE COMMITTEE ON PATENTS.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. PLATT February 17, 1896, reported it without amendment, and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the stenographer employed to report the hearing before the Committee on Patents of parties interested in the bill (S. 1453) for the relief of Daniel Drawbaugh be paid from the contingent fund of the Senate.

HEARINGS ON UNIVERSITY OF THE UNITED STATES.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. KYLE March 23, 1896, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the stenographer employed to report the hearings before the Committee to Establish the University of the United States of parties interested in the bill (S. 1202) to establish a university of the United States be paid from the contingent fund of the Senate.

COMMITTEE ON CONSTRUCTION OF THE NICARAGUA CANAL.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. MORGAN February 7, 1896, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That, when it may be so necessary, the chairman of the Committee on the Construction of the Nicaraguan Canal is authorized to employ a stenographer, whose compensation shall be paid out of the contingent fund of the Senate.

NATIONAL SANITARIUM IN NEW MEXICO.

Mr. DUBOIS. I am unanimously directed by the Committee on Public Lands, to whom was referred the bill (S. 2593) granting to the American Invalid Aid Society, of Boston, Mass., the abandoned Fort Stanton Military Reservation, in New Mexico, for the purpose of a national sanitarium for the treatment of pulmonary diseases, to report it favorably with an amendment, and I ask for its present consideration.

The bill was read, as follows:

Be it enacted, etc., That the abandoned Fort Stanton Military Reservation, and all the improvements thereon, situated in the Territory of New Mexico, be, and the same is hereby, granted to the American Invalid Aid Society, of Boston, Mass., upon the conditions that said society shall establish and maintain perpetually thereon a national sanitarium for the treatment of pulmonary diseases: *Provided*, That said society shall within two years from and after the passage of this act accept this grant and shall establish on said reservation a sanitarium for the purposes herein named; and whenever the said lands and buildings shall cease to be used by said society for the purposes herein provided the same shall revert to the United States.

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

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

The amendment of the Committee on Public Lands was, in line 3, to strike out "Stanton" and insert "Marcy"; so as to read "the abandoned Fort Marcy Military Reservation."

Mr. GRAY. I do not understand that. Will the Senator state the meaning of it?

Mr. GALLINGER. In response to the Senator from Delaware, I will state that there is an incorporated association in the city of Boston entitled the American Invalid Aid Society. It consists of men like Dr. Edward Everett Hale, Hezekiah Butterworth——

Mr. GRAY. I understand that; but I ask as to the amendment.

Mr. GALLINGER. The amendment is simply to give the Fort Marcy Military Reservation at Santa Fe. It has been found that the Fort Stanton Military Reservation is a hundred miles or more from a railroad, and hence it is not applicable for the purposes of the society. The Fort Marcy Reservation is going to be given to the city of Santa Fe if it is not given to this very laudable purpose, and all parties are agreed that it is better to have the proposed amendment made.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill granting to the American Invalid Aid Society of Boston, Mass., the abandoned Fort Marcy Military Reservation, in New Mexico, for the purpose of a national sanitarium for the treatment of pulmonary diseases."

PACIFIC RAILROADS.

Mr. PUGH. Yesterday I agreed to withhold the minority report of my colleague [Mr. MORGAN] adverse to Senate bill 2894, etc., until the majority report is ready to be presented by the chairman of the Committee on Pacific Railroads. My colleague left the city to-day at 11.30, and before leaving he addressed me the following note:

Please file my report adverse to Senate bill No. 2894 to-day and ask that it be printed. It has reference to three bills reported to the Senate by the Committee on Pacific Railroads and placed on the Calendar, and is not merely a response to Senate bill 2894, which was not introduced in the Senate and was never seen or discussed by me.

Upon that statement of my colleague, I present the minority report signed by him, and ask that it be printed in the RECORD.

The PRESIDENT pro tempore. The Senator from Alabama presents a minority report, as indicated, in behalf of his colleague and asks that it be printed in the RECORD.

Mr. PUGH. The minority report comprises only 36 pages. My colleague does not ask that the whole document be printed.

The PRESIDENT pro tempore. The request is that it be printed in the RECORD?

Mr. PUGH. That it be printed in the RECORD. My colleague says the bills to which it relates have been printed in the RECORD and he desires to have the minority report printed in the RECORD.

Mr. CHANDLER. I object for two reasons, which I should like to state to the Senator from Alabama.

Mr. PUGH. I can not hear the Senator from New Hampshire.

Mr. CHANDLER. I object to printing in the RECORD for two reasons. One is, I do not think the RECORD should be cumbered by the majority and the minority reports. They would appear in fine type and nobody would read them. When Senators want them they will inquire for the document and read them in that form. Secondly, while the bill reported by the majority of the committee is printed in the RECORD, the majority report itself is not yet printed in the RECORD, and it would be unprecedented to print the minority report in advance of the majority report.

Mr. PUGH. I do not understand from the note of my colleague that the minority report has any relation at all to the majority report upon Senate bill 2894. It is his view upon the whole system of legislation embodied in the three bills which are now on the Calendar of the Senate. His report is not directed to the bill to which the majority report relates, because he says he has never seen that bill, that he never read it, and never discussed it in the committee.

Mr. CHANDLER. Then I do not see why it should be put into the RECORD. If, when the bill comes up for discussion, the Senator from Alabama is not present and it is desired that a paper giving his views shall be read, I certainly would not object to it, but here are 36 printed pages with a vast mass of matter accompanying, and in the interest of keeping the RECORD within reasonable limits I think I ought to object, in the absence of anything from the majority of the committee printed in the RECORD upon which to found this request.

The PRESIDENT pro tempore. Objection is made to printing the views of the minority in the RECORD.

Mr. PUGH. My colleague requests that his views be printed.

Mr. PLATT. That is not a request that his views be printed in the RECORD.

The PRESIDENT pro tempore. That is the usual request made when a report is offered. The views of the minority are presented, and they will be printed.

Mr. GEAR. I will state in reference to the report offered by the Senator from Alabama, that I understand it is the report of the Senator from Alabama [Mr. MORGAN] who is ill, and relates to the bills presented by the Senator from Nebraska [Mr. THURSTON], the Senator from Nebraska [Mr. ALLEN], and the Senator from Maine [Mr. FRYE]. It has no direct connection with the bill reported by the majority of the committee. The reason why the Senator from Alabama, did not see the bill is because he was confined to his house for the last ten days or two weeks and has not been able to meet with the committee. What may be his views on the subject of the bill reported I do not know. The majority of the committee shall not ask to have their report printed in the RECORD. It will be printed as an ordinary document.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 1353) to revive and reenact the act entitled "An act to

authorize the building of a railroad bridge at Little Rock, Ark.," approved March 2, 1891.

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

A bill (H. R. 7140) granting to A. L. Robeson Post, No. 42, Grand Army of the Republic, of Bridgeton, N. J., 4 condemned cannon and 20 cannon balls;

A bill (H. R. 8262) authorizing and directing the Secretary of the Navy to furnish condemned cannon to certain Grand Army posts, a monument association, and an army post; and

A bill (H. R. 8313) authorizing the transfer of a cannon from the Rock Island Arsenal, Rock Island, Ill., to Grant Park, in Galena, Ill.

ENROLLED BILLS SIGNED.

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

A bill (S. 69) to authorize the Secretary of the Interior to settle the claims of the legal representatives of S. W. Marston, late United States Indian agent at Union Agency, Ind. T., for services and expenses;

A bill (S. 744) providing for a naval training station on the island of Yerba Buena (or Goat Island), in the harbor of San Francisco, Cal., and for other purposes;

A bill (H. R. 365) to fix the date of the discharge of Thomas Johnson;

A bill (H. R. 2224) granting an increase of pension to Lewis C. Schilling;

A joint resolution (H. Res. 85) relative to the medal of honor authorized by the acts of July 12, 1862, and March 3, 1863;

A joint resolution (H. Res. 160) to appoint four members of the Board of Managers for the National Home for Disabled Volunteer Soldiers; and

A joint resolution (H. Res. 163) to amend an act approved August 1, 1894, making appropriations for fortifications and other works of defense, etc.

BILLS INTRODUCED.

Mr. NELSON introduced a bill (S. 2903) to increase the pension of Sarah Gresham, widow of Col. Benjamin Q. A. Gresham; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2904) for the relief of the next of kin of Christian Reimers; which was read twice by its title, and referred to the Committee on Claims.

Mr. HOAR introduced a bill (S. 2905) for the relief of Mrs. L. A. Barber; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PRITCHARD introduced a bill (S. 2906) for the establishment of a light-house at the pitch of Cape Fear River, near Wilmington, N. C.; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CALL introduced a bill (S. 2907) granting an increase of pension to I. C. Clifton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BRICE introduced a bill (S. 2908) granting a pension to Franklin Andrews; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2909) granting a pension to Henry Schafer; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2910) granting a pension to Mrs. Essie E. Powell; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2911) increasing the pension of George B. Cock; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2912) increasing the pension of William C. Forsythe; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MCMILLAN submitted two amendments intended to be proposed by him to the District of Columbia appropriation bill; which were referred to the Committee on the District of Columbia, and ordered to be printed.

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

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

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

CHARLES E. JONES.

Mr. BAKER. A few days since the Senate passed a bill for the relief of Charles E. Jones. No amount was stated in the bill that passed. He was merely given a status in the Pension Bureau. It being necessary for him to prove his claim in the Pension Bureau, he desires that the papers now on file in the office of the Secretary of the Senate be transmitted to the Commissioner of Pensions to be considered as testimony in his case. I ask that an order may be made to that effect.

The PRESIDENT pro tempore. Without objection, an order for the withdrawal of the papers will be entered.

MARY J. HICKMAN.

Mr. GORMAN submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay out of the miscellaneous items of the contingent fund of the Senate to Mary J. Hickman, widow of Anthony Hickman, late a laborer in charge of the private passage in the employ of the Senate, an amount equal to six months' salary as such laborer, said sum to be considered as in lieu of all funeral expenses and allowances.

JUDGMENTS OF COURT OF CLAIMS.

Mr. HILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to transmit to the Senate a list of judgments rendered by the Court of Claims, not including those heretofore transmitted, and which require an appropriation for their payment.

REPORT ON THE NICARAGUA CANAL.

Mr. COCKRELL submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed 10,000 copies of the report made by Messrs. Ludlow, Endicott, and Noble, of date October 31, 1895, upon the Nicaragua Canal, together with the maps and plans accompanying the same, 6,000 of which shall be for the use of the House of Representatives and 4,000 for the use of the Senate.

NATIONAL NEW HAVEN BANK.

Mr. PLATT. On the 17th of April the Senate passed, upon my motion, the bill (S. 1365) for the relief of the National New Haven Bank of the State of Connecticut. I find that there is a mistake in the corporate name of the bank. I therefore move that the votes by which the bill was ordered to a third reading and passed be reconsidered. The bill is still in the possession of the Senate.

The motion to reconsider was agreed to.

Mr. PLATT. In line 4, I move to strike out the words "National Bank of New Haven" and insert in lieu the words "National New Haven Bank of the State of Connecticut."

The amendment was agreed to.

The bill was read the third time, and passed.

HOUSE BILLS REFERRED.

The bill (H. R. 7140) granting to A. L. Robeson Post, No. 42, Grand Army of the Republic, of Bridgeton, N. J., 4 condemned cannon and 20 cannon balls was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. 8262) authorizing and directing the Secretary of the Navy to furnish condemned cannon to certain Grand Army posts, a monument association, and an army post was read twice its title, and referred to the Committee on Naval Affairs.

UNION PACIFIC RAILWAY LANDS.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a former day, which will be stated.

The SECRETARY. A resolution, by Mr. WARREN, directing the Secretary of the Interior to rescind his orders to the Commissioner of the General Land Office suspending work upon the Union Pacific Railroad land lists now on file, embracing lands along the main line in western Nebraska.

Mr. ALLEN. Let the resolution be stated again.

Mr. WILSON. The Senator from Wyoming [Mr. WARREN] is not present, and I ask that the resolution may go over without prejudice.

Mr. ALLEN. I am not objecting to the resolution. I caught only the latter part of the title and I should like to have it read again.

The PRESIDENT pro tempore. The Senator from Wyoming is not present, and the Senator from Washington asks unanimous consent that the resolution may go over and not lose its place.

Mr. WILSON. Yes, sir.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed a bill (H. R. 8293) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1896, and

for prior years, and for other purposes; in which it requested the concurrence of the Senate.

GROUND MAP OF THE UNITED STATES.

Mr. CANNON. I ask unanimous consent to call up from the table the joint resolution (S. R. 135) providing for the appointment of a commission to report upon the practicability of establishing near Washington, D. C., a ground map of the United States, that I may submit a few observations upon that proposed measure. I ask that the joint resolution be read in full for the information of the Senate.

The joint resolution was read, as follows:

Resolved, etc., That the appointment of a commission of five citizens of the United States is authorized to be made in the following manner: Three members to be selected by the President of the United States, one by the President of the Senate, and one by the Speaker of the House of Representatives, and for the following purpose: To examine into and to report to Congress upon the practicability, advisability, and cost of establishing at or near the city of Washington a ground map of the United States of America, on a scale of 1 square yard of map surface for each square mile of actual area, said ground map to be as nearly as may be our country in miniature, reproducing in earth and other materials, on scale, the boundaries and the topography, all the natural and artificial features of the surface, showing geographical divisions; also, mountains, hills, and valleys, forests, lakes, and streams, cities and villages; and that said commission is to serve without compensation.

Mr. CANNON. Do I understand that I have the permission of the Senate to proceed with some brief observations on this subject?

The PRESIDENT pro tempore. The Senator from Utah asks unanimous consent that he may address the Senate at this time on the joint resolution. Is there objection? The Chair hears none.

Mr. CANNON. Mr. President, I shall move that the joint resolution be referred to the Committee on Public Buildings and Grounds at the conclusion of my remarks.

It will be observed, Mr. President, from a reading of this resolution that its sole present purpose is to provide for the creation of a commission to make certain inquiries regarding what I believe to be a most desirable object. It will also be observed that no expense will be entailed upon the National Treasury if this commission shall be appointed, except by further specific action by Congress to that end.

The purpose I have in view ultimately by this resolution is to secure the establishment at or near the capital of our nation of a ground map of this country, which shall furnish in general and in detail a comprehensive view of the vast domain within the boundaries of the United States proper. To provide so large a map as this upon the scale proposed there will be required 625 acres upon which would be projected all the geographical lines, all the topography, and what map makers call the culture of the United States. Upon imaginary State lines there would run footpaths, so that the observer could pass around each State, and through the larger States, where such paths would not interfere with the topography or the culture.

Mr. President, upon such a tract there would first be established the periphery of the United States, 10,855 miles in length of land and water boundaries, and then from the apparent sea level on the east and west the tract would be graded to a vertical scale, corresponding with the horizontal scale, to show the greatest height attained by any of our mountains.

Any season of the year might be selected for representation, either the awakening spring or the flashing summer or the serene autumn; but perhaps the 1st of June, which is, generally speaking, the most beautiful season of the year in the United States, might be chosen, and by reproducing the country as of that date some idea would be given to the observer of the latitudinal differences in the country. We would have all the rivers, all the lakes, all the forests, all the mountains, all the valleys, all the chasms, all the cities, and all the hamlets of the United States produced here in as great exactitude as human skill could compass. Upon such a map the Mississippi River with its Missouri tributary would be 4,506 yards long and about 3 feet wide of actual water. Lake Michigan would contain 22,000 square yards of actual water surface. Upon such a body miniature steamboats could ply. The cities would be probably built of glass, in order that by running electric wires under them they could be illuminated at night.

It is quite practicable, Mr. President, with the skill now at the command of our scientists, to thus reproduce the country, to give for educational purposes and for still greater purposes than immediate practical results so great a benefaction to the people of the United States.

The commission to be appointed would inquire into three propositions: The practicability, the cost, and the advisability of such a project. I group under the head of "practicability" the physical and financial propositions; and, inasmuch as it is not wise at this time to anticipate the work of the commission, I will simply state, Mr. President, that I have expert testimony on these points that neither will the cost be extravagant nor will there be any physical difficulties in the way of such a proposed production of "our country in miniature."

As to the advisability, there is not one hour, Mr. President, in any working day of the year when legislators of the United States or administrative officers are not confronted by problems which could be more speedily, more justly, and more intelligently settled by reference to a map of this character.

It is not for me to reflect upon the general intelligence of the people of the United States of America; but our country has grown so fast and so rapidly that it has passed the possibility of a man engaged in active public, professional, or business life—and therefore moving forward the many interests of the people of the United States—to so keep himself informed as to be thoroughly conversant with even the physical development of the country over which legislative and administrative officers preside, and for which they perform such signal service. A map of this character would at once, upon visiting it, convey to the mind of the observer some correct and comprehensive idea of any physical question under consideration. There is not anything pertaining to railroads, internal navigation, public improvement, or to any other physical development requiring conversance with the physical conditions of the United States but that will be settled by reference to such a map if established.

Mr. President, I listened not long since to a very interesting address on the subject of fortifications in this Senate. Coming from the vast West, without any intimate knowledge of the demands of the seacoasts of the United States, it was practically impossible, except in the most general way, to receive even from the learned Senator who addressed this body an idea of the requirements for the national safety on the seaboard.

Our seacoast, Mr. President, is 5,300 miles long in the main, and, including indentations, is 21,000 miles in length. To defend that we have 70 forts in greater or lesser degree of inefficiency—so generally inefficient that we could not kill an attacking enemy with even civilized rapidity. We have some 124 war vessels to guard that long line of coast as against the 489 which England possesses. One visit to a map of this character would convey more information of the actual need or give demonstration of the correctness of addresses delivered on the subject more comprehensively than hours and hours of talk in both branches of Congress.

Any member of the legislative body, any citizen of the United States visiting here from any section of the country, could gain an idea of the requirements of any part of the West or of the East. People from the Mississippi Valley and from the farther West could see represented the towns where are manufactured $9,000,000,000 worth of products per annum, the result of quintupled powers within the generation of men now living. People from the East could see the wonderful growth in that vast West which is opening, with its possibilities of homesteads for all the people of the United States who shall have the desire and energy to become independent owners of their country's soil.

We have arrived at an hour when the renaissance of home seeking is necessary. We have 12,600,000 families, according to the last census, and only 11,400,000 dwellings in the United States. Somewhere within 2,000,000 families in this country dwell under the same roof with other families, thus destroying the sweetest sanctity of home life.

There is in the vast West of public lands yet unoccupied nearly 1,000,000 square miles, sufficient in that arid and semiarid region to give to 16,000,000 home owners each a farm of 20 acres. In 1850 we had but a million and a half of farms in the United States. Now we have more than four and one-half millions, and from those homestead farms have come up hundreds of great soldiers of civilization, Mr. President, who, had they been reared in the crowded cities of the East, where humanity grows cheaper year by year because of its superabundance, might, many of them, have been servitors instead of sovereigns. We should so incite the thought and the sentiment of the people in this country that we shall re-create the ambition of home owning, adding strength to the mightiest bulwark of this great empire of freedom.

Historians have noted that the highest civilization of past ages was reached in rainless lands. There is a reason for that, Mr. President, because in lands where God sends the rain to enrich the soil the tiller of the soil is enervated. He goes out and looks up to the sky and says to his sons, "Well, please God, send a rain storm and we will make a crop," or, "Please God, no more rain and our crop will be saved." But in rainless lands, where irrigation is practiced, the husbandman at 6 o'clock in the morning says, "Up boys and turn the water on, and by our own energy we will make a crop;" and crop failures are never known. There is thus a significant physical reason why in rainless lands men should develop to a stancher and more self-reliant type. The men who are thus developing would prefer that rain should come, but in the centuries the result will be shown; and in the great arid uplands of our country, where the soil is nearer to the stars, there may be developed some of the greatest and highest effects of our civilization. It is to such waiting and welcoming lands that we should direct the attention of the masses of this country, that we may stay the swelling of that army of discontent, whose banner is rags, whose courage is only despair, and whose battle

cry is merely destruction of the thing that is. It is growing all the time, and anything which can draw the attention of the masses of this country to the opportunities which exist for home getting will add more than any other one thing I can conceive of to benefit and to bless the nation.

Mr. President, upon such a map would be spread out a showing of the 236,000 schoolhouses in the United States, where there are being educated by the State more than 12,000,000 of those people who have the Godlike possibilities of the future, the children who are going to do what we of the older generation thought we would do, but which we have failed to accomplish.

Mr. President, while all these practical questions are being presented, there is one more of greater importance. I think it is desirable at the present time to give some common, patriotic impulsion to the thought of the people of the United States. We grow specialized in our consciousness of our duty toward Government. The scientist says that the day has almost come when a student will give his whole lifetime to the study of a bee's foot. Because of the wonderful trend to specializing in all the departments of life, and notwithstanding the facilities for intercommunication, notwithstanding the wonderful diffusiveness of the daily papers, which furnish information, and sometimes misinformation, to the popular mind, it is a fact that men are raising around themselves a necessary environment, narrowing all the time in their appreciation of the wants of others with the growth and wonders of our civilization. And anything which can have a tendency to promote thought of the common duty of all the people to the common end, anything which can show every man who shall care to open his eyes and see, the wonder of his duty toward a country comprising such a vast variety of soil and climate with such a vast variety of needs, certainly is desirable.

Mr. President, every man in the nation should feel by example made to his physical sense, if he does not obtain it otherwise, that he is a part of a great monument like that which stands here upon the reservation—square, white, and majestic—every stone of which is absolutely necessary to its perpetuity and to its stability.

Upon this map, Mr. President, would be displayed all the colors of all the earth and its culture within our confines—the red soil of the lands east of the Alleghanies, the black loam of the Mississippi Valley, and the rainbow tints of the Colorado chasms of the farther West. Vineyards and sand dunes would be shown; the cotton fields whitening to their ripeness; the rice plantations and the fields of grain. Upon the Great Lakes of the country would stand at moor the ships which give to our internal commerce greater facilities on water than is known on all the oceans of the world. We would have the Detroit River, with its chain of steamboats, showing to the actual physical sense of the observer that way which carries more commerce than any other similar space of water on the globe.

I have said, however, that the physical advantages and the educational results to be attained are not so great, in my humble judgment, as the patriotic advantage to the country to have such a map established at the seat of Government of the United States, kept in good repair, kept up to date, with probably an attendant furnished by each State to give the information of changes so fast as they occur. I would hope, if such a map were established, that there might be some margin left to the north and to the south where extensions of the map might occur. I would hope that the patriotic scientists of this commission, if they finally decide to recommend to Congress, and if the idea should be carried out under their direction, would leave a little space off to the far southeast corner, from which might rise some time in the dear sisterhood of republics, if not in that dearer sisterhood of States, crucified Cuba. When the wound in her side shall be healed, perhaps some time her sacrificial ruby flow will mingle with the sacred scarlet of our own flag.

Mr. President, I would hope that the representatives of other lands lying to the north and the far south, gazing at such a demonstration as this map would be of the miracle of one hundred and twenty years of free civilization, will take heart of hope and, as our fathers did and dared, will themselves do and dare until no throne of earth shall cast its shadow on this hemisphere.

I move that the joint resolution be referred to the Committee on Public Buildings and Grounds.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. 8293) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1896, and for prior years, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

BVT. COL. THOMAS P. O'REILLY.

Mr. PETTIGREW. I move that the Senate proceed to the consideration of the Indian appropriation bill.

Mr. SMITH. I ask unanimous consent for the consideration of a bill which will not occasion any debate.

Mr. PETTIGREW. I shall have to object to any order of business except the appropriation bill.

The PRESIDING OFFICER (Mr. BURROWS in the chair). The Senator from South Dakota objects.

Mr. SMITH. I will say to the Senator from South Dakota that as I must leave the Senate for a few days, and this bill will not lead to any debate, I should like to have it taken up and disposed of now.

The PRESIDING OFFICER. Does the Senator from South Dakota yield for that purpose?

Mr. PETTIGREW. I will yield to the Senator from New Jersey on his statement that he wishes to leave the city.

Mr. SMITH. I ask unanimous consent for the present consideration of the bill (S. 559) for the relief of Bvt. Col. Thomas P. O'Reilly.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That the President of the United States be, and he is hereby, authorized to appoint Thomas P. O'Reilly, late second lieutenant in the Twenty-second Infantry of the Army, a first lieutenant in the Army, and to place him upon the retired list of the Army in his late grade, the retired list being thereby increased in number to that extent.

The amendment was agreed to.

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

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

INDIAN APPROPRIATION BILL.

Mr. PETTIGREW. I now move that the Senate proceed to the consideration of the Indian appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6249) making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1897, and for other purposes, the pending question being on the amendment submitted by Mr. SHERMAN to the amendment of the Committee on Appropriations, on page 56, line 5, after the word "persons," to strike out "and not to their assignees"; so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the following persons immediately upon the passage of this act, etc.

Mr. PALMER. Mr. President, yesterday when interrupted I was about presenting to the Senate my views of the actual condition of the Old Settler Indians and their relations to the United States. I said:

These persons made contracts that were sanctioned by the United States, and among the contracts which were made, I infer from the suggestion of the Senator from Missouri [Mr. COCKRELL], there was an order or resolution of this group adopted setting apart 35 per cent of whatever might be realized to compensate attorneys, or to compensate the particular attorney with whom the contract was made.

This group of persons had rights, somewhat shadowy, as I supposed at the time. They were recognized to a limited extent by the Department of the Interior as having some capacity to contract. I apprehend that as a matter of pure law they had no such power. I apprehend that the Secretaries of the Interior recognized them somewhat of necessity, and treated these contracts as having some binding force. But the particular idea I wanted to present was that these persons were incapable of making contracts that ought to bind anybody; that they were under the protection of the United States, as we sometimes say, as persons laboring under disabilities are under the protection of the chancellor, the rule being, as in chancery, that where an incapable person—as, for instance, a minor—makes a contract with a person capable of contracting the court will recognize the contract if it is for the benefit of the minor or the incapable. I suppose it was in that view or to that extent and with that limitation that the Secretaries of the Interior recognized this contract as it ought to be enforced upon principles of equity and according to the doctrine of the courts of equity—that is, to the extent that the persons who have served this group of individuals are entitled to compensation to the extent of their merits and should be paid that which they reasonably deserve to have; and that is the limit of their rights. I can not conceive that they have any right predicated upon free contracts; but the United States being the trustee, having complete jurisdiction over this subject, stands in the place of a vigilant, earnest, careful trustee, recognizing all that has been done to the extent that it has benefited these persons and that the fund shall be made to pay these persons for the services actually rendered. That is the extent to which I am disposed to concede any right to these attorneys, whoever they may be.

The United States in the administration of this fund—I speak now of the fund set apart to pay expenses, the 35 per cent—had possession of the fund, and, as I have maintained, ought to administer it upon principles of equity and justice. The laws that have

been passed in regard to this subject—I speak of them without reference to any particular statute—confided the execution of this trust to the Department of the Interior, and the Secretary of the Interior became the representative at once of the justice of the United States, and he is bound, or the United States is bound in acting through him, to see to it that absolute justice is done to all the parties who claim these funds as well as to those to whom the fund ultimately belongs. The Senator from South Dakota [Mr. PETTIGREW] said on yesterday that no part of this fund will ever be paid to these Indians. If that is a prophecy, I fear it is true; if it is an assertion of a legal proposition, I respectfully contest it. This fund belongs to these tribes, and upon the basis of the contract, because, as I understand the statement of the Senator from Missouri [Mr. COCKRELL], it is that 35 per cent, or so much thereof as may be necessary, shall be set apart. It was not a contract with anybody; at least there is no contract anywhere to be found in any of the papers by which any particular person acquired the exclusive right to this fund. It was a mere setting apart, in an imaginary sense, of money for this purpose, but the ultimate right to what remains belongs to the Indians.

The Secretary of the Interior, acting through the Commissioner of Indian Affairs, received the claims on this fund and passed upon them. He allowed to various persons the amounts which upon principles of equity and justice were due; as, for example, he allowed to one of the claimants—I speak of Mr. Peabody—$8,000, and that was supposed to be in full compensation for whatever service he had rendered the Indians. By reference to the pamphlet I hold in my hand, which contains extracts from the opinion of the Secretary of the Interior, it will be seen that this was intended to be a final and complete adjustment of the claim of Mr. Peabody against the fund. It is true that the Commissioner of Indian Affairs rejected the claim altogether, as one having no just foundation. It is also true that the Secretary of the Interior reversed that finding of the Commissioner of Indian Affairs and allowed to Mr. Peabody $8,000.

Now, what reason can be given for increasing the amount? It was referred by the United States to a commissioner, if I may use that term, with ample power to investigate and do justice with respect to the fund and to the claimant. Eight thousand dollars was allowed as full compensation, and yet the amendment of the Committee on Indian Affairs proposes to allow him the additional sum of $29,000. If he received under the adjudication of the Secretary of the Interior $8,000 in full of the merits of his claim, upon what principle can the $29,000 additional be allowed?

It appears in the course of an examination of the papers that most of these persons presented their claims to the Secretary of the Interior and most of them were passed upon, were adjudicated. I use that term not in the absolutely technical sense, but in a sense higher, because the United States, the trustee of this fund, charged with the obligation of being just to all—just to the Indians, just to the claimants—referred the matter to a proper officer, and these persons presented their claims to him. The claims were adjudicated and partially allowed, and so far as the extent of the allowance goes they were paid. I submit, therefore, that the ultimate balance of the fund after paying the just claims belongs to those from whom the fund was derived—the Old Settlers.

The United States, in the disposition of this fund, in the clear exercise of its power, determined that the Secretary of the Interior should not only pass upon the merits of the claims, but impliedly required that all claimants should apply to that adjudicating officer for the adjustment of their claims. There is a class of claims which were never submitted to the adjudication of the Secretary of the Interior. I should like to know upon what principle it is that the committee propose to allow that class of claims. The United States creates a tribunal, a competent officer, with authority to adjust the whole matter. Here are claimants with claims to a very considerable amount who have altogether declined the jurisdiction of the Department of the Interior, and the committee, upon evidence with which we have not been furnished, without requiring such presentation and without giving the ultimate owners of the residuum of the fund an opportunity to be heard in contesting the claims before the Secretary of the Interior, have made very liberal and very large allowances.

I shall refer, by way of illustration, to a few of the claims which were not presented to the Commissioner of Indian Affairs as provided by the act of August 23, 1894, amounting to $20,150. I read now:

> The first observation which it seems proper for us to make upon these claims is that if they had the slightest foundation in fact, or were of such unquestioned merit as should commend them to the favorable consideration of Congress, the persons who now solicit the enactment of a law which shall provide for their payment would have been willing to submit them to an examination by that officer who was charged with the duty of making payment of the claims for "expenses and legal services."

Why did not those persons present their claims to the Commissioner of Indian Affairs, and why have they postponed the presentation of those claims until this late day? It has been said by a very distinguished jurist that time, which destroys the evidence of claims or destroys the defenses, furnishes statutes of limitations to supply the place of evidence lost. Why is it that these claims have been withheld until now? Why have not those persons submitted them to the adjudication of the Commissioner of Indian Affairs, the guardian of this fund selected by Congress, selected by the United States, which is under the highest obligation to be just and to discharge all just obligations? Twenty thousand dollars of these claims has never been presented to the Department of the Interior, from which I infer——

Mr. TELLER. If the Senator from Illinois will allow me, he is mistaken about that. They were presented, but not until after the adjudication was made by the Secretary.

Mr. PALMER. I beg pardon.

Mr. TELLER. I understand the reason why two were not presented is, that the administrators were not aware that the matter was being considered. When they did find it out they presented their claims, so I am informed.

Mr. PALMER. That would make it necessary to modify the generality of my statement. I grant that persons who were ignorant of this peculiar method of adjudicating claims are entitled to the benefit of that plea. It was not a tribunal of general jurisdiction, but one of special jurisdiction created for the purpose, and, although I do not remember that any such fact appears upon any of the records which I have examined, yet if supported by proper facts it would be a sufficient reason for not presenting the claim.

The argument against the claims growing out of their nonpresentation is, that the claimants declined the jurisdiction and preferred to appeal to Congress, where the facts could only be imperfectly known, rather than to appeal to a tribunal where all the facts might have been distinctly investigated and a proper conclusion reached. Therefore, whatever may be said by way of excuse, it would seem that persons holding claims of this magnitude would have been put upon inquiry; that they would have watched the progress of their claims, and when a plea of the statute of limitations is made to a demand the mere ignorance of the right or of the tribunal has never been regarded as an excuse for not presenting the claim. The statutes provide for disabilities, nonresidence, infancy, and many other things, which may be replied to a plea of the statute of limitations, but this being a tribunal where justice, pure, absolute justice, should be done, I am not disposed to adopt that rigid theory.

I maintain that the fund was only conditionally set apart by the Indians by a contract which was imperfect of itself. It derived its sanction largely from the acquiescence of Congress and the agents—the officers of the Department. It ought to be administered upon principles of absolute justice, and no right ought to be asserted here simply upon the arbitrary ground of contract. These persons ought to be paid the amount they reasonably deserve to have for their services, and perhaps I may allude to the opinion of the Commissioner of Indian Affairs, when speaking of the claim of Mr. Peabody, as illustrating my meaning:

> I am therefore unable to find that Mr. Peabody is entitled to anything under his contract. He has filed four affidavits of services, neither of which fully complies with the statute. He declares that he did not keep a memorandum of his services, and that it would be impossible for him to file a statement showing each act of service, with date and fact in detail as required by law, and that the best he can do is to give inclusive dates within which he rendered service. This he has done in his affidavit of November 13, 1894; but even in this, as in all his other affidavits, he fails to give even one specific date upon which he rendered any single act of service.
>
> In this affidavit he says that between the dates of December 9, 1882, and January 24, 1883, he rendered service before C. C. Clements, the special agent of the Interior Department; between January 24, 1883, and December 12, 1883, he rendered service before the Commissioner of Indian Affairs and the Secretary of the Interior; that between December 12, 1883, and February 13, 1884, he rendered service in connection with Mr. Wilshire and Mr. Sibbald in advancing the case before committees of Congress, where it was then pending; that during the period from February 13, 1884, to February 9, 1885, he was all ready to consult with his associates, and did so consult when desired; that he, from February 9, 1885, until March 8, 1889, while the case was pending before Congress on the findings of fact by the Court of Claims, was in frequent consultation with his associates, and aided in all actions possible by appearing personally, and whenever it was proper and advantageous to the case for him to appear, and in furtherance of its rereference to the Court of Claims; that after the case was sent to the Court of Claims the second time, he considered his work performed, although he was consulted from time to time between March 8, 1889, and April 21, 1891, on which latter date he entered the Government service, where he remained until October 30, 1893, and during which time he rendered no service under his contract; that from about November 1, 1893, until the passage of the act of August 13, 1894, he was in consultation with his associates from time to time and rendered service such as was to the best interest of the claim before committees of Congress.

There are loose, vague specifications, that admit of no absolute statement. It is difficult enough, at best, to fix the value of legal services. It was said by one of the judges of the Court of Claims—a citizen of Illinois, by the way—who has a good deal of humor: "What a remarkable thing it is to be a lawyer. No man can tell whether the service is worth $40 or $400. It has to be estimated." That was illustrated very much in a celebrated case in which Mr. Lincoln was concerned against the Illinois Central Railroad Company, where the elements that enter into the value of the services of an attorney were taken into account, were considered separately. One of them was the amount involved in the

controversy, which necessarily imposes higher responsibilities upon the attorney than where the amount is much smaller, and that is a part of the theory on which compensation is adjusted.

Here is a claim of $37,000. I do not speak of this claim because I am particularly hostile to it, for I regard them all as being alike. Here is a claim made by a party who does not specify—does not attempt to specify, except in this loose way—what he did, who abandoned the service of his client for two years, during which time he not only performed no service, but during which it would actually have been a crime and a misdemeanor under the statute to have served his client. This person comes and demands $37,000 on an account without specification. There is no single example of appearance before any tribunal. I speak now of the affidavits—I quote from so much of the affidavits as is furnished in the opinion of the Commissioner of Indian Affairs. For that unspecified service $37,000 is demanded. Eight thousand dollars has been determined by the proper officer of the Government to cover the entire claim so far as it has merit in fact. So I might speak of others to show how things are inflated. I speak now of the name I am about to mention with the most profound respect. I mention the case of an attorney who has claims upon the gallantry of the bar at least, not perhaps a brother lawyer, but a sister-in-law to all lawyers—the claim of Belva A. Lockwood.

This active and intelligent lawyer claims—

I read what has been written and printed—

This active and intelligent lawyer claimed the insignificant sum $80,000 for her valuable services. The claim was rejected by both the Commissioner of Indian Affairs and the Secretary of the Interior, upon such satisfactory and conclusive reasons as ought to preclude the possibility of Congress passing any act which shall give to this claimant the sum of $1,000 out of the moneys which ought to be returned to these Indians.

Mr. GRAY. May I ask the Senator from Illinois a question? Has the lawyer to whom he refers agreed to accept $1,000 in lieu of $80,000?

Mr. PALMER. I have not the confidence of that sister-in-law of the profession, but I venture to say that she will not be satisfied with it.

Mr. GRAY. Why does the Senator from Illinois say "sister-in-law"?

Mr. PALMER. Simply because she is not a brother-in-law.

Mr. GRAY. I beg the Senator's pardon, but to whom is he referring?

Mr. PALMER. I am referring to Belva A. Lockwood.

Mr. GRAY. I beg pardon. I hope I may be forgiven for any lack of gallantry in the premises.

Mr. PALMER. When I mention the name and the sex the Senator will agree with me that she will never be satisfied with $1,000 when she has claimed $80,000.

Mr. GRAY. I think not.

Mr. PALMER. It has been stated in the course of this debate that claims to the amount of $200,000 were preferred against the fund, and I must say that so far as I know the Committee on Indian Affairs and the Committee on Appropriations have divided it out as equitably as possible where there is no equity upon which the thing can possibly rest.

I insist now, in conclusion, that this fund, being in the hands of the nation as a trust, becomes a sacred fund from that consideration, and perhaps from it alone. The duty of a trustee, especially when voluntarily assumed, is one that involves the greatest responsibilities and the highest of moral obligations. The United States, without regard to the particular beneficiaries of the fund, has voluntarily assumed the trust. Rights seem to have been established in one of our courts, and that would be not only prima facie, but conclusive evidence of the justice of the right. The Indians set aside 35 per cent, or so much thereof as might be necessary, to pay the almost inevitable expenses which attend such claims. I find here that, although the contract was made with a single person, the claimants seem to be legion. They come, and each one demands a portion of the fund, and it is divided among persons who have no apparent connection with the original contract, and we are not furnished with evidence that such persons have ever performed a single act of service.

Mr. President, I have not been a member of this body for so short a time as not to know something of the influences and of the delays that attend the adjustment of claims of citizens against the Government. It is a reproach to the Congress of the United States that just and meritorious claims have not been settled long ago. There ought to be no necessity for the employment of that class of persons called lobbyists. The necessity for lobbyists has been recognized in some countries. For example, in that country from which we draw many of our institutions, they have parliamentary advocates who are recognized by the courts, the great court of Parliament. They are practitioners there and are subject to the control of the court.

We have no control over lobbyists. They simply come and go. They serve whatever interest they have and contest the questions in which they are interested outdoors or before committees, perhaps. But still they are irresponsible, and I find in this case that the Committee on Indian Affairs has simply determined by a process that they have not explained very fully to consume the fund. After A's and B's and C's amounts have been allowed to them the committee propose to dispose of the final residue. I maintain that the claims already settled and paid are enough. One hundred and ninety-three thousand dollars has already been paid out of the fund, a small balance remains, and the amendment proposes to dispose of that balance to persons who have been partially paid, persons who have received all that a proper tribunal determined they should have. Yet this is a proposition to add to their compensation. I speak of the Peabody claim again. Peabody was held to be entitled to $8,000 upon a quantum meruit, and the amendment proposes to give him $29,000 in addition to the $8,000 which was thought by the Department of the Interior or the Commissioner of Indian Affairs to be ample reasonable compensation for the services he had rendered.

Mr. President, having gone over the matter in a hasty way, I can only say that I regard this as an occasion when Congress ought to step in to protect this trust fund from further spoliation.

Mr. BROWN. Mr. President, the objection to the amendment which I made first yesterday and which I repeat to-day is that the amendment provides no suitable tribunal in which the claims can be adjudicated—no court or commission in the nature of a court where the parties who are affected may have notice, may be brought in, where the right of claimants may be determined by evidence and by cross-examination.

I have listened with great interest to what has been so clearly stated by the Senator from Colorado [Mr. TELLER] and the arguments of the Senator from Connecticut [Mr. PLATT] and of the Senator from Illinois [Mr. PALMER], and it seems to me that the more the case is discussed and the more we hear about the facts of it the more apparent it is that each step in this inquiry should be before some such tribunal as that which I have described, where witnesses may be examined and the rights of the parties determined. Take the original contract. Begin with that way back in 1875. It was a contract, as appears by the reports before us, made by a sort of convention. It is signed by William Wilson, president of the convention, and H. T. Landrum, secretary, and by those resolutions a sort of contract was made with Mr. Wilson himself and two other persons.

The contract provided that a sum not exceeding 35 per cent of the entire amount received should be set apart for attorneys, but the contract was not executed by all the beneficiaries. It was a convention from out of them, not by all of them, as I understand it, and if I am wrong I should like to be corrected. The Supreme Court of the United States, in passing upon it, say that these petitioners who were thus appointed do not represent all the beneficiaries, if I understand to whom they refer. They say in the decision when this case was before them (148 U. S., 479):

But the evidence is quite inadequate to justify the court in treating the immediate petitioners as appointed by all the beneficiaries as their agents to receive and disburse the amount awarded.

There were then certain persons who were not represented in this convention and who have not agreed to give 35 per cent; and yet out of the sum which will be awarded to them per capita must be taken the 35 per cent. In other words, they are deprived of 35 per cent of that which comes to them, without any hearing, without any contract, without any opportunity whatever to say whether it is legitimate or just. It seems to me right there we might stop and pause and say that instead of that contract being absolutely binding and giving the claimants the 35 per cent it should be only so much thereof as would be just and equitable, a quantum meruit of it. When we look at the original contract we find in it a clause, which has been adverted to by the Senator from Illinois, that it is 35 per cent "or so much thereof as may be necessary." It was evidently the intention of the original makers of the convention that some body or board of audit should determine just how much should be earned under the contract. So with the other resolutions that year after year were passed, until we come down to the resolution, which appears not to be printed, or, at least, I have failed to see any printed copy of it, and which was read here yesterday by the chairman of the committee, typewritten or in writing, in which it is said in substance that they have set aside the former contracts and awarded all to Mr. Bryan. I do not quote the words—I have not the report here—but I understand that to be the substance of it. Am I correct? The whole of the 35 per cent?

Mr. PETTIGREW. What was left of it.

Mr. BROWN. What was left of it, of course. The whole of it that has not been already used up.

Now, whether that contract was executed fairly, honestly, legitimately is a matter which they would have the right to inquire into before any tribunal. While I am not here to say that it was unfairly procured, whether it was or was not, I have heard it stated that it was a thing that these Indians had a right to defend against, being a suit in which they are in the position of defendants. You propose to take their property under that contract.

Have they not a right to have an opportunity to appear and be heard by their counsel and by their witnesses to show that that contract was procured improperly? Whether it was properly or improperly procured, Congress is not the proper place to enforce contracts or to make them. The enforcement of that contract, or any branch of it, ought to belong to some place where the parties may have an opportunity to be heard.

So in every step and every reason we find here additional grounds for demanding a judicial tribunal. The last bill that was before Congress in 1894 seemed to have left it in a measure to the Commissioner of Indian Affairs, with an appeal to the Secretary of the Interior. At all events, these parties acted upon the assumption that the Commissioner of Indian Affairs and the Secretary of the Interior had the right to adjudicate their claims. Accordingly we find that nearly all these claimants (and I do not know but all of them and many more) appeared before the Commissioner of Indian Affairs and presented their claims. To be sure, the defendants in the case, the Indians, had no notice of it. It was an ex parte hearing. It was a place where their claims were adjudicated in their own favor, and nobody had the right to defend against them. These claims were there heard and were awarded. I will reverse the order in which they appear in the bill. The principal one, Mr. Joel M. Bryan, had his cause presented there. He appeared there, and his claim was examined and adjudicated there. He received upon his claim for his services fifty-two thousand and some odd dollars, and it was adjudged to him. He accepted it. Apparently he received it. If I understand the report correctly, it was paid to him. In other words, he submitted his claim for whatever it was, was awarded $52,000, and he accepted it, and now he comes back as cool and refreshing as if he had never had a cent and says to Congress, "Give me all the rest of it that you can not apportion to anybody else."

Now, I differ with the honorable committees that have had charge of this matter, not that I express any criticism of them, or that I desire, in what I wish to say upon the subject of this claim, either to criticise their lack of examination or criticise their view; but I have the right to my own.

Mr. President, it seems to me, and I think it would seem to the majority of men, that when Mr. Bryan had presented his claim thus and had thus been awarded $52,000, and he received it in full of his services, and that when he comes back to Congress and asks more, it can not be an honest claim. While I say this with all deference to the committee, it seems to me that upon his part it would be a steal to come back and ask it. He, it must be remembered, was the confidential agent as well as the attorney. It was his business to protect these Indians, to protect this fund against the unlawful encroachment of dishonest attorneys. He claims that he has done it, and that some of this money is paid for that unlawful encroachment, and that the claim of at least one of the claimants was for that purpose. But now he says, "I must have the whole of it for doing it." What good would it be to the Indians to have this 35 per cent protected against these unlawful encroachments unless they were to have some of it, if there should be any left over?

Now he says, and this amendment proposes, that if there should be anything left after the attorneys get it, or get what they want, the balance shall be handed over to Mr. Bryan. It seems to me that the claim of Mr. Bryan under all these circumstances ought not to be allowed in this amendment. As to the claim of these other gentlemen that they were his associates, they do not pretend, if I understand the claim rightly, that one of them made an original contract with the Indians, but their contracts come from Bryan, either by direct contract with him or by the assignment of some interest that he may have had in it. So whatever rights and duties apply to Bryan must apply to his assignees as well, and whatever might be said about his conduct is equally true of the conduct of them.

It was said here yesterday in criticism of what I said that these parties were not engaged in lobbying; that it was in something else that they were engaged. I had supposed when I used the expression that there was no dispute about it that they were engaged in lobbying, and so I ask the members of the Senate who are interested in this subject to look at the original contract. The Indians claim that there was a large sum there due, and they asked Mr. Bryan to present and prosecute it before the Government of the United States. What branch of the Government? Before its courts or before its Congress? It could not be presented before the courts; it must come before Congress necessarily. In the very nature of the contract it was one in which Mr. Bryan was to appear here and procure such legislation as he thought for the interest of these Indians, and is that anything but lobbying? In using his personal influence to get this claim from the Government by Congress it was, if I understand the term at all, the beginning of lobbying. His contract was to lobby through this bill in behalf of the Indians, and the other gentlemen and ladies who present their claims are his associates, his assistants; they are assistants to a lobby. If it was wrong to call Mr. Peabody a lobbyist it could only be corrected by saying that he was assisting in lobbying, that he was assistant to a lobbyist. That was the business in which he certainly was engaged.

Mr. Bryan, it is said by the Senator from Colorado [Mr. TELLER], took such an interest in this matter that for years his face was familiar to every member of either House. How did it become familiar, Mr. President, except by his engaging in the business of lobbying? The Senator says that at least a hundred times, in all, he came to visit him while he was Secretary of the Interior and while he was a Senator. What was the errand? Was it the trial of a lawsuit? Was it anything else but exerting his personal influence as a lobbyist with the distinguished Secretary and distinguished Senator? It could be nothing else. I did not know Mr. Peabody and did not particularly intend to single him out from the rest, but he has been engaged in this service during a period of over twelve years. What could he have been doing all that time—over twelve years? It is not alleged or stated by any of the distinguished Senators who know him or know the service, it is not stated in the testimony of any witness, not even by affidavit, that he spent any twelve years in this service, nor, if I mistake not, is it stated anywhere how much time he spent. It might be true, and these affidavits also be true, that he was employed in this matter over twelve years ago, and that once a year he would spend a day upon it. So he could have been engaged in the service over twelve years. The mere length of time through which this claim was drizzling through the different Houses is not the measure of the compensation of a lobbyist or a lawyer. If it be true that the longer a lawyer could keep his client's case in court the more compensation he was entitled to, then, indeed, it might operate to put a premium on the delay of the law. The question must be, it seems to me, in considering any one of these cases, how much time, diligence, ability, and reputation each man put into it; how can we properly judge of these things here in Congress; have we the machinery or the knowledge by which we may determine them, or is it not proper that it should be referred to a judicial tribunal?

This claim of Mr. Peabody was considered by the Commissioner of Indian Affairs, carefully examined, and, in an elaborate opinion, rejected. He appealed to the Secretary of the Interior, and the Secretary of the Interior reviews the evidence, weighs the evidence, considers the case, and awards him $8,000, which he accepts.

The PRESIDING OFFICER. The Senator from Utah will please suspend. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A resolution, by Mr. PEFFER, providing for a committee of five Senators to investigate and report generally all the material facts and circumstances connected with the sale of United States bonds by the Secretary of the Treasury in the years 1894, 1895, and 1896.

Mr. CHANDLER. I ask unanimous consent that the unfinished business may be passed over without losing its place as the unfinished business.

Mr. PETTIGREW. I think that is the understanding.

The PRESIDING OFFICER. The Senator from New Hampshire asks unanimous consent that the unfinished business be passed over without losing its place. Is there objection?

Mr. HILL. We do not want any new understanding about it. I want to stand on the old understanding and not make a new one all the time. There is an understanding now.

Mr. CHANDLER. I did not ask for any new understanding. I refer to the old one.

Mr. HILL. One is enough.

The PRESIDING OFFICER. The Chair hears no objection. The Senator from Utah will proceed.

Mr. BROWN. All I ask is that that acceptance shall be final. I see no reason why with that acceptance it is proper that he should be permitted to ask for it over again. It is said here that it was insufficient. It is among the misfortunes of human trials that causes are not always determined rightly. This is not the only plaintiff, this is not the only claimant, who has presented an honest and proper claim and yet has not received the full amount of what he thought was due him. Yet it has been held, by the common sense of all mankind, that when a man does present his claim and it has been once decided and he receives the benefit of that decision, his mouth should be estopped forever upon that subject; so with each of the others. It seems to me that they have no legitimate claim to come before Congress. Many of them, and I think most of them, hold by contract from Joel M. Bryan. That is especially true of the last two, in lines 9 and 10, page 57, and I think of all the rest on page 57.

Now, I submit to the Senate, what have we to do to enforce the contracts of Bryan with the different persons who claim that they have made arrangements with him? If he owes them 1 per cent or 2 per cent or one-half per cent of what he receives, the court where he lives is the proper and the only tribunal to dispose of his indebtedness and to test the validity of his contracts.

It has been said here that the Indians are non compos, and

therefore we must pass contracts for them and take care of them. Does that apply to these claimants and to Mr. Bryan? For aught that appears here, they are able to take care of themselves. I know there has been a peculiar clause put into this amendment, which the Senator from Ohio has asked to be stricken out, which is found at page 56, lines 5 and 6, directing the payment to be made to the following persons and not to their assignees, as if these persons were incompetent to assign. And yet most of them were assignees under Bryan, or contractors under Bryan, in whichever capacity, substantially it is the same thing. Why are we asked not to recognize any assignment now when the very gist of their action under their claim against these Indians was that they are the assignees of Mr. Bryan's right?

It seems to me, Mr. President, that as we examine into this case the reasons and causes that were urged yesterday appear only the more prominent. These are claims which should be determined by some court or tribunal, and they are the claims of lobbyists whose claims have been once adjudicated and who have been in large part paid for their services.

What I have to say does not apply to one or two whose claims are still pending. Undoubtedly the Interior Department will take care of them at the proper time.

Mr. CHANDLER. Mr. President, after the amendment of the Senator from Ohio to the amendment is disposed of, I shall move an amendment to the committee amendment and which I will ask to have read at this time as a part of my remarks.

The PRESIDING OFFICER. The Secretary will read the proposed amendment to the amendment.

The Secretary read as follows:

Strike out on page 56 all after the word "that," in line 4, to and including the words "out of," in line 7; also all from line 18 on page 56 to line 14 on page 57, inclusive, and insert after line 17 on page 56 the following:

"Shall remain in the Treasury to be available, with 4 per cent interest thereon from said August 23, 1894, for the payment of the claims of the parties legally or equitably entitled to said balance; and all claimants may bring suits therefor in the Court of Claims within three months after the passage of this act and not afterwards, which shall consider all existing evidence in the Interior Department, and such other evidence as may be properly taken, and the judgments of said court shall be final and conclusive without appeal as to the amount and validity of said claims; and said balance with interest thereon shall be paid out in accordance with said judgments without further legislation by Congress."

Mr. CHANDLER. Mr. President, it seems to me that this amendment meets the objection of the Senator from Utah to the amendment of the committee. I trust this method of disposing of this vexed question will be satisfactory to the Senator from Colorado and the Committee on Appropriations and to the Committee on Indian Affairs, for the more I consider the propositions upon pages 56 and 57 of the bill, which are designed to commit the Senate to a judgment that these particular individuals are entitled to these sums and no more, the more am I opposed to having an adjudication of this kind made by the Senate.

I was struck with one curious incident of this adjudication of these claims which has been made by the Committee on Appropriations. It seems that Messrs. Reese H. Voorhees and John Paul Jones, who had received $32,000 for their services in securing the allowance of the $800,000, were also employed by a further contract to defend the Old Settlers against the unreasonable claims of attorneys, and they are to be paid $7,003.86 for defending the Old Settlers from the unreasonable claims of attorneys. Now, the Committee on Appropriations bring in a proposition here which wholly nullifies the services of Messrs. Voorhees and Jones. They were successful before the Secretary of the Interior in preventing the allowance of all the demands which were made upon this fund, and they are to be paid $7,003.86 for their success in defending the Old Settlers from these exorbitant fees; but now the Committee on Indian Affairs and the Committee on Appropriations come here and set aside all the results of these attorneys, and go on and pay to these claimants the sums which the Secretary of the Interior has refused to pay them, and in the same bill propose to pay Voorhees and Jones $7,003.86 for defending the Old Settlers from unreasonable claims.

It would seem to me as if the employment of Mr. Voorhees and Mr. Jones ought to have been extended to a defense of their clients before the Committee on Indian Affairs and the Committee on Appropriations, and that there ought to have been another sum here for that particular defense. They defended their clients with success before the Secretary of the Interior and are to be paid $7,003.86 for it. Ought they not to have been employed and paid $7,000 to defend their clients before the Committee on Indian Affairs and the Committee on Appropriations? I think so. And yet here is this ludicrous situation that we are called upon to pay to these two gentlemen $7,000 for defending their clients, while the Committee on Appropriations which allows them the $7,000 overrules and nullifies the defense which they had successfully made before the Secretary of the Interior. That seems to me to be very singular. What success have the clients of Messrs. Reese H. Voorhees and John Paul Jones had in their contention if it is to be set aside and nullified by the Committee on Indian Affairs and the Committee on Appropriations?

Mr. President, the more Senators study these items the more unwilling will they be to be responsible by their votes for the declaration and the adjudication that those particular men and that particular woman are entitled to the sums which are named here. And the more Senators will investigate the subject the more unwilling will they be to adjudicate that to Joel M. Bryan the remainder of this 35 per cent upon $800,000 shall be paid in accordance with the contract which the Senator from South Dakota read to the Senate yesterday for the purpose of showing that in no event could the Old Settlers realize anything from the balance of the 35 per cent.

As to the claim of Mrs. Lockwood, when I said it had been cut down from $80,000 to $1,000, I was not mistaken. The Senator from Colorado said she had no contract. I did not say that she had. I said she claimed $80,000, and her claim was cut down to $1,000.

Mr. TELLER. I do not hear what the Senator from New Hampshire says. If he is addressing his remarks to me I should like to hear them.

Mr. CHANDLER. The Senator from Colorado said yesterday, addressing himself to me:

If he knew the facts as well as he thinks he knows them he would get along a great deal better.

Nothing disturbs me more, Mr. President, than to have an imputation of ignorance placed upon me by the Senator from Colorado. I owe the Senator a debt of gratitude, however, because, as he has been in the habit of telling me from year to year that I knew nothing about the silver question, adding occasionally, by way of gentle admonition, that I did not desire to know, I have been led to study the subject somewhat, and I wish to say to the Senator that the result of my studies of the silver question has been different from what they have been in this case, to bring me nearer to the Senator from Colorado in my views than I should have been if it had not been, I might add, for his paternal admonitions.

Mr. TELLER. I should like to say that I am delighted to hear that the Senator has been making progress in that direction. I have been aware of that for some time, and if anything I have said has stimulated him I am very glad I said it. [Laughter.]

Mr. CHANDLER. Faithful, Mr. President, are the wounds of a friend, and it is a good thing sometimes for a man to be hugged by a bear, if he succeeds in getting away with his life. [Laughter.]

I have been investigating this subject since yesterday. I was struck by the fact that these Old Settlers seem to have made a contract with Mr. Joel M. Bryan, by which they agreed to give to him the balance of this 35 per cent. It struck me as singular that after Mr. Bryan had been working all these years of his life, from 1875 to 1895, twenty years, on a contract by which he was to receive 6½ per cent of the amount recovered, which amounted, upon the $800,386.31, to $52,025.11, they had on the 28th day of July, 1893, made another contract with Mr. Bryan to give him all there was left of the 35 per cent. I say it struck me as very singular that the Old Settlers had been willing to do that thing. I was impressed by the air of triumph with which the Senator from South Dakota read this contract, which seems, as he said, to show that the Old Settlers were not in this business, and that it was a mere question of various persons to whom this money should be parceled out. I was set on inquiry, and I found an affidavit bearing upon that last agreement. This copy, I think, was handed to the Senator from Idaho [Mr. SHOUP], but I was informed that the original of this affidavit was placed in the hands of the Appropriations Committee. I shall be obliged to either of the Senators to ascertain where the original is, and whether or not it is in the hands of the Appropriations Committee; but I found this affidavit. I was then led to contemplate this contract, which the Senator from South Dakota claims deprives the Old Settlers of any interest in this controversy.

Mr. President, after all these years of struggle on the part of Mr. Joel M. Bryan, an appropriation by Congress was made in settlement of the claim, thanks to the efforts which had been made by the Old Settlers themselves, or by the young settlers, or by the attorneys, or by the lobbyists, or by all of them together—a settlement was approaching, an appropriation by Congress was coming; and it seems to have occurred to Mr. Bryan that by some possibility some portion of this 35 per cent of the $800,000, this $280,000 of counsel fees out of $800,000, would go to the Old Settlers themselves; that by some possibility some little remnant of that money might remain to these Indians. So, on the 28th day of July, 1893, they made this contract with Mr. Bryan. On the 26th of March, 1894, it was approved by Commissioner Browning, and on the 24th of July, 1894, it was approved by Mr. Sims, the Acting Secretary of the Interior. When it was satisfactorily arranged that by no possibility should any portion of this 35 per cent get into the hands of the Old Settlers, then this appropriation made speedy progress. The $800,000 was allowed on the 23d day of August, 1894, and to-day, in pursuance of this contract of July

28, 1893, Mr. Joel M. Bryan is to be adjudicated by this Senate as entitled to "the remainder of said sum of money after paying the foregoing specific sums, be the same more or less." We are to pronounce that that contract was legal, was fair, was equitable, and ought to be carried out by these special provisions of this act of Congress.

I learn that when the Old Settlers made this new contract they supposed that only one-half of 1 per cent of this 35 per cent would be left undisposed of by the contract which had been made by Mr. Bryan in addition to his own contract of 6½ per cent; they supposed that the barest pittance of this whole sum was to remain, and they were induced to agree that Mr. Bryan might have that money; whereas in truth and in fact, according to this statement made by this tribunal, consisting of the Senator from South Dakota, the Senator from Colorado, and the Senator from Connecticut, there is to go, if I am right, about $20,000 under this bill to Mr. Bryan. They supposed that there was a half of 1 per cent to go to him, which would be $4,000. That was all they supposed would go to him, and the fact that they made that contract under that mistaken idea is apparent from the affidavit, the original of which is now on the files, I am informed, of the Committee on Appropriations, but which has not been submitted to the Senate by either of the Senators who have spoken in behalf of this appropriation. I ask that the affidavit may be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

CHEROKEE NATION, *Tahlequah District:*

Personally before me, a clerk in and for Tahlequah district, Cherokee Nation, came this day A. J. Robertson, R. Wofford, J. M. Smith, John Hendricks, and Lewis Miller, who, after being duly sworn according to law, jointly make the following statement:

"We are members of the 'Old Settler Cherokees,' and have been present at and have taken an active part in the deliberations and transactions of the councils of 'Old Settler Cherokees' during the past twenty years, more or less.

"We were personally present at and participated in the business done by the 'Old Settler council' in 1893, at which time the said council passed a motion or resolution allowing J. M. Bryan whatever should remain of the 35 per cent set aside out of judgment against the United States to pay attorneys' fees after all amounts already contracted to be paid had been so paid. We further state that such action by the 'Old Settler council' was had on the express understanding that said residue would not exceed one-half of 1 per cent, the said J. M. Bryan having there made a report to the effect that 34½ per cent had been contracted for already.

"We state positively that the said Old Settler Council never allowed or agreed to allow J. M. Bryan any more than the amount named, one-half per cent, in addition to what had already been allowed him.

"We earnestly protest against any further claim being allowed the said J. M. Bryan."

Further they state not.

S. J. ROBERTSON.
JOHN (his x mark) HENDRICKS.
R. WOFFORD.
J. M. SMITH.
LEWIS (his x mark) MILLER.

Subscribed and sworn to before me this the 7th day of March, A. D. 1896.
Witness my hand and official seal on day and date above last written.
[SEAL.]

T. W. TRIPLET,
Clerk Tahlequah District.
By ARCH SPEARS, *Deputy.*

Mr. CHANDLER. Mr. President, if the original of that affidavit is in the possession of the Committee on Appropriations, I should like to have it submitted to the Senate in order that it may not be said that this is not a true copy.

The whole transaction is a singular one. On July 28, 1892, when the Old Settlers came to pass this resolution, they personally resolved that the sum of 1½ per cent of the amount due the Old Settler Cherokees be paid to Joel L. Baugh for services rendered and to be rendered upon the Old Settlers' claim, the same to be deducted out of the 35 per cent set apart for the prosecution of the Old Settlers' claim.

It does not appear from the papers in the case who Joel L. Baugh is. Joel L. Baugh is a relative and connection of Mr. Bryan. In the year 1893, when the payment of this claim was in sight, for some reason or other, Joel L. Baugh having had no part in these contracts, a provision was made that he should receive 1½ per cent, and he has been paid I do not know how many thousands of dollars, and 1½ per cent would have been $12,000. Twelve thousand dollars was agreed to be taken out of the 35 per cent for Joel L. Baugh. That would not exhaust the whole money, and so John B. Heard, of Missouri, is provided for.

Be it further resolved, That the contract entered into July 25, 1893, by and between Old Settlers' Commissioner and Treasurer J. M. Bryan on the one part and John T. Heard, of Missouri, of the other part, for $10,000, be, and the same is hereby, approved.

So $12,000 is taken for Baugh, and $10,000 is taken for Heard. What services did Mr. Heard render? He had been a member of Congress all the time I have been in Congress down to the last Congress, and he was hardly out of Congress, if he was out of it, when this agreement was made.

Mr. TELLER. Will the Senator allow me a word, as Mr. Heard is not here?

Mr. CHANDLER. Certainly.

Mr. TELLER. Mr. Heard was employed by these Indians before he was a member of Congress. When he became a member of Congress his connection with the matter ceased, and the Indians, recognizing his services, consented that he should have $10,000. Congress passed an act, which originated in the House of Representatives, and which passed the Senate, giving him $10,000 out of this fund. There can be no reflection upon Mr. Heard. He had earned the money and was entitled to it, and everybody, unless it may be the Senator from New Hampshire, agrees that he was entitled to it. So that matter ought to be considered settled.

Mr. CHANDLER. I meant no reflection upon Mr. Heard; none whatever. The Senator is too sensitive altogether about these claims. I knew very well that this amount had been allowed to Mr. Heard after a full debate in the House of Representatives as to what should be paid him. When he was going out of Congress, after many years of service, it was suggested that many years before he had done something, some mysterious thing, some wonderful service for these Indians, and the House of Representatives, the Senate concurring, donated him $10,000, equal to the amount of his salary as a member of Congress for two years, for what he had done away back. I undertake to say the Senator from Colorado does not know to this moment what Mr. Heard did. He located the service away back in a time almost before the deluge.

Mr. Heard never brought in any bill for the service until it was found that $800,000 were to be appropriated by Congress and that there was a bare possibility that some portion of the 35 per cent might remain with the Old Settlers, and it was determined to use that up. So this arrangement was made by which Joel L. Baugh was to have $12,000 and John B. Heard was to have $10,000. Then the Indians were told that there would be a little remnant of one-half of 1 per cent, and it was suggested to them, "You are perfectly willing to give that to Mr. Bryan in addition to his $52,000, are you not?" The Indians said, "Certainly," and so that contract was made, the Indians believing that it would not amount to over $4,000. Now we are to pass this bill, and it is asserted that Joel M. Bryan, in addition to his $52,000, is entitled to $20,000 more than the $52,000, in order that the whole 35 per cent may be used up.

Mr. President, if I were not afraid that I should irritate the Senator from Colorado, I would ask him how much Mr. Joel M. Bryan is likely to get under this bill.

Mr. TELLER. Mr. Bryan should get, I think, about $11,000; between ten and eleven thousand dollars, as I understand.

Mr. CHANDLER. I thought it was $20,000, but whether it is $20,000 or not, I will call it $11,000, if the Senator says so. It would be altogether more satisfactory if we could have a report showing the reasons why this settlement should be made in this way. It would be altogether more satisfactory, if we are to be the judges, if we are to decide this question as between all of the claimants of fees in this case, where it will cost these Indians $280,000 lawyers' fees, and druggists' fees, and female fees in order to get $800,000 appropriated—it would be altogether more satisfactory if we had a report stating why these different amounts are to be paid.

There was $6,000,000 appropriated for the Choctaw and Chickasaw Indians, and $600,000 of that had to be paid out in fees. Fortunately we were not called upon to approve the whole schedule of fees. The $600,000 was put into the hands of Mr. James S. Stansley, and he took the larger part of it to St. Louis and paid it out there. He paid out the other portion in Washington, and all the lawyers from all parts of the earth, including, I think, New York City, were paid out by Mr. Stansley. I should have regretted very much if that whole list of lawyers' fees, for whom that $600,000 was paid, had been brought in here by the Appropriations Committee, and we had been obliged to indorse every one of those payments by name, as we are here asked to indorse this extraordinary list of attorneys' fees by the Committee on Appropriations to say, in our judgment and by our votes, that they are due.

Mr. President, I believe that last contract made in 1893 was not binding upon the Indians. I am very anxious to say that I think it was a fraud upon the Indians. I think I can say that without putting any imputation, which I disclaim, upon the committee. The Indians were a set of innocents. They did not know what they were doing, and the Committee on Indian Affairs and the Committee on Appropriations were a set of innocents when they brought in this list and asked us to approve it. They ought to have had counsel, Mr. Voorhees and Mr. Jones, before them, in order that they might defend this sum from the claims of all these harpies who have been making prey upon it. Mr. Voorhees and Mr. Jones have successfully protected the Secretary of the Interior, and they are paid for it in this bill. Who was there to protect these two committees when they undertook to approve and adjudicate to be valid this deceptive contract which these Indians were induced to make, and when these committees were led to ask us to say by our vote that each of these sums of money, and

no more, is due to each one of the distinguished lawyers and associates of the lawyers whose names are contained in this bill? I respectfully submit, in all candor, that the Senate of the United States ought not to have been put to this test. I submit that this money either ought to have been paid over in a lump to Mr. Bryan, if he were entitled to it, and he should have been compelled to settle with these parties, or the money should have been left in the hands of the Secretary of the Interior, and these parties should have been compelled to prove their claims to him, or else the Committee on Appropriations ought to have brought in a provision here for sending these claims to the Court of Claims, where they would have a hearing on both sides.

Mr. President, I hope that the amendment which I have submitted will, upon calm and candid reflection, when they are in a nonirritable condition of mind, be acceptable to both the Senator from South Dakota and the Senator from Colorado.

Mr. PETTIGREW. Mr. President, the Senator from New Hampshire has attacked the contract made with Mr. Bryan by the Old Settler Cherokees on the 28th of July, 1893, and to sustain his attack has put in an ex parte affidavit that the Indians understood something else. Of course an affidavit of that sort and affidavits of that character are entitled to no weight and no credence whatever. I believe it is pretty well understood from the evidence taken before the Dawes Commission that affidavits can be obtained by the bushel at a very small price from the inhabitants of that country; and to bring such an affidavit here in order to influence the action of the Senate in opposition to a contract which was duly passed by these people and approved by the Department is certainly pettifogging the case before the Senate, it seems to me.

It appears that this contract was made by the Old Settlers' council in pursuance of advertisement.

The report of the Hon. J. M. Bryan, Old Settler Cherokee commissioner and treasurer, was read.

Motion made that the president appoint a committee of five to take into consideration the report of Commissioner and Treasurer J. M. Bryan and to also look into Old Settler matters generally.

The president appointed as such committee E. B. Wright, H. C. Barnes, E. C. Boudinot, Aaron Terrell, and A. J. Griffin.

Motion made that they elect an additional member to cooperate with the committee of five appointed by the president; carried, and W. A. Duncan was so elected. Committee made the following report, which was adopted:

Among other things in the report was the following:

TAHLEQUAH, CHEROKEE NATION, *July 28, 1893.*

Then follows the report of these six gentlemen, who, on looking into all these matters, say:

We further recommend that, after the Cherokee Nation be reimbursed for all borrowed money, the residue of the 35 per cent be allowed to the Hon. J. M. Bryan, in addition to the 5½ per cent already approved, as an additional compensation for his valuable services.

We recommend the adoption of the following resolutions as embracing the substance of this report.

This is signed by the six members of the committee. Then the council proceed to pass this resolution:

Be it further resolved, That after the Cherokee Nation shall have been reimbursed for borrowed money and all contracts in force satisfied the residue of the 35 per cent shall be allowed to Hon. J. M. Bryan, commissioner and treasurer, as an additional consideration for his long and valuable services as commissioner, delegate, and attorney for the Old Settler Cherokees.

Then follows this:

Be it further resolved, That all previous acts of the Old Settlers' councils not modified by these resolutions be, and the same are hereby, reaffirmed.

Be it further resolved, That our delegate and commissioner, or his successors, are hereby instructed to see that no claims are allowed for attorney fees acting for the Old Settlers in cases where no services have been rendered or where they have failed to strictly comply with the provisions and conditions of their contracts.

The Senator says that $7,000 was allowed to Voorhees and Jones to defend against the very claims that the committee now allow in order that the Old Settler Cherokees might save a part of the 35 per cent. They passed a resolution giving the remainder of the 35 per cent to Bryan, and then passed a resolution protesting against claims that were not proper claims and where no service had been rendered. They employed these attorneys to contest those claims in excess of the 35 per cent. There were claims filed that pretty nearly absorbed the whole $800,000, and part of the claims allowed by the committee are for service in contending against and securing the disallowance of those claims in excess of 35 per cent.

This report is signed July 28, 1893; passed the council unanimously at Tahlequah, Ind. T. It is signed by six persons, Mr. Wright, Mr. Boudinot, Mr. Barnes, Mr. Duncan, Mr. Terrel, and Mr. Griffin. It was approved July 28 by Mr. Hendricks, president of the council, and then there is a certificate and seal that this is a true copy of the original. Then C. J. Harris, who signed the protest here, the principal chief of the Cherokee Nation, certifies:

I * * * do hereby certify that the foregoing four pages are the proceedings of an Old Settler Cherokee council held at Tahlequah, Ind. T., on the 20th of July, 1893.

And yet the Senator brings in to impeach this an affidavit of some of these Indians in which it is charged that Mr. Harris and those six gentlemen did not know what they were about when they made the contract, which was approved by the Commissioner of Indian Affairs and the Secretary of the Interior.

Now, let us see what Bryan had done to earn this money. He has been paid $52,000, but $52,000 will only pay him back the money he has advanced and the expense he has been to. He is 86 years old. If the case is sent to the Court of Claims he will never live to see the end of it or to receive a dollar of the money, and I think what he himself says in his affidavit certainly must be true. He states what I will read:

Joel M. Bryan, having been duly sworn on his oath, deposes and says:

The Old Settler claim arose under treaty of 1828, the treaty violation of 1835, and failure to make full settlement under the treaty of 1846.

From 1846, when the Old Settlers presented the claim, and 1852, when they protested against the partial payment of it, till 1875, they had made various attempts to secure justice, to induce the officers of the United States who had the proper authority to secure an adjustment of the sum due them.

They were poor, without influence, and discouraged by two entire generations of failure. Our community had no representation in Congress, even by a Delegate, no votes to be considered, and no stronger method of commanding and enforcing our rights than by appeal to the justice of preoccupied men, whose energies were absorbed in other duties.

I was then a vigorous and sanguine man of 65 years. I had had a large experience in public affairs and knew the justice of the claim. I believed I could make its merit so clear that payment would soon follow. My present age of 86 and my position as a suppliant for fees earned at the expense of life, the sacrifice of fortune, and the repose due old age admonish me that I was oversanguine, and that even a just claim against the United States may be full of jeopardy and heart-breaking discouragement.

If it is sent to the Court of Claims he will certainly die continuing in this belief, for he will not get a dollar out of it for five years.

Mr. GRAY. How much has he already received?

Mr. PETTIGREW. He claims the entire $79,000, and proceeds to make a good case for every cent of it. He says, however, that he wants what he can get before he dies, and he is willing that it shall be distributed in this way if he can get his $11,000 to carry him to his grave. Yet Senators stand up here and attack this old man's just claim, which he spent his life contending for, and want to beat him out of it:

It is but justice to myself to say that, when I assumed the responsibility of collecting the money due my people, I laid aside everything else and gave my whole time and energy to this duty. I was then fairly well off. I had two stores, one at home and one at Fort Gibson, a good farm, home residence, the best flour mill, sawmill, and planing mill in the Cherokee Nation, 12 teams and wagons, horses and cattle, various town lots, and was generally well to do. When I had finished this fight I had consumed it all and was heavily in debt. After I used up my property, when Congress was not in session, I practiced law in the courts of the Cherokee Nation making, probably, $1,500 a year from this source, every dollar of which I used in keeping up and pressing the fight for my people.

I think it proper to say that in the brief and condensed history of my services which follow in these pages I wish it to be understood as part of my sworn statement that at no part of the long struggle was I a noncombatant, but that I took an active part in drawing the various bills by which relief was sought, drew memorials, obtained evidence, made written and oral arguments whenever and wherever necessary, constantly personally interviewing the executive officers and members of Congress, and urging their action with all the zeal I possessed.

Then he gives a history of the case in detail, what he did in each Congress every year, showing that he spent every moment of his time on the claim. He made 72 trips from the Indian Territory to Washington and back. Knowing all these facts, knowing his valuable service, knowing that he had taken a contingent fee and put up his entire fortune, the Cherokee Indians chose to give him the remainder of the 35 per cent, as they had a right to do, and they made a solemn agreement and contract which it is proposed to refute and overturn by an ex parte affidavit of a lot of Indians put in here by the Senator from New Hampshire. If he were practicing before a justice's court he would hardly undertake to pursue such a course.

Bryan said the Secretary allowed him 6½ per cent, or $52,025. He says:

It may not be improper to state that this sum was in large part consumed at once in paying my private indebtedness incurred in the prosecution of this case for money borrowed, with years of accumulated interest, and for my local attorneys, whose assistance was necessary to me in the safe conduct of this case.

He not only had spent his fortune, but he paid out nearly all of this money, and is without compensation. He is here pressing his claim for the remainder of this money. It seems to me, in view of these facts, that there is no possible equitable claim on the part of the Cherokees for a dollar of this money, and that not a dollar of it can go to them. It must go to Bryan, if not distributed among the attorneys, and if Mr. Bryan is satisfied that it shall be distributed in this way who else has occasion to complain? Who else is interested?

It seems to me that if the Senators who have not spoken against the amendment are as ignorant in regard to this case as those who have spoken, it will be unfortunate, indeed. It seems to me only those Senators have spoken against the amendment who are ignorant with respect to it, who know nothing about it. They have groped along here through two days of discussion for the purpose of gaining information, I should judge, and yet they succeeded in absorbing but very little of it. Bryan shows here by a bill of

items that he has paid out not only the $52,000 which he has received, but a sum nearly equal to the whole $75,000 still undistributed.

It seems to me, and it seemed to the Committee on Appropriations and to the Committee on Indian Affairs, which went carefully into the whole subject and made a unanimous report, that this is the best disposition that can be made of the money. There is not money enough to begin to pay all the claims that were presented, and we determined, if possible, to keep the question out of future Congresses. We therefore provide "that every person receiving the sums herein stated shall receipt in full for all claims upon the aforesaid fund."

I think the best thing for the Senate to do is to dispose of this matter by adopting the committee amendment and have it done with.

Mr. TELLER. Mr. President, I merely wish to say a few words about this case, because it seems that the gentlemen who have the largest amount of money involved are made the object of special attack by some Senators, and it is repeated, notwithstanding what I called the attention of the Senate to yesterday, that this man has rendered no service.

I call the attention of the Senator from Illinois [Mr. PALMER], who seems to think this man rendered no service, to the fact that the foundation of the claim is the report of the Commissioner. If that report had been against the claim or for a much less sum, undoubtedly a less sum would have obtained, and if wholly against it there would have been no further consideration whatever. In an affidavit submitted to the Secretary of the Interior by Mr. Clements, the Commissioner, who, as I said yesterday, I have known for thirty years, an honest man, he makes the statement that after he had made the first report Major Peabody and Mr. Sibbald, who is one of the beneficiaries in the amendment, discovered that he had made an error against the Old Settlers of $240,743.82. Subsequently they discovered another error of $54,000, making an error of about $300,000 in the accounting, which he said was discovered by Peabody and Sibbald.

The Senator from Utah [Mr. BROWN] insisted that these men were lobbyists. He makes the statement that they must be lobbyists, because there was no other place to which they could go than to Congress. I do not understand that when a claim is prosecuted before Congress every man who prosecutes it is a lobbyist. I do not understand that Mr. Bryan comes within the term "lobbyist." A man who comes here to see that justice is done, although he may be employed as an attorney who goes before committees, is not to be rated as a lobbyist. If they could not hire attorneys to come here they would have no remedy whatever. The late Attorney-General, Mr. Garland, than whom no more honorable man ever sat in this Chamber, states of his own knowledge the service rendered by Mr. Peabody, and he says that Mr. Peabody made trips to the Indian Territory in the interest of the claim, looking up facts. Governor Crawford, a former governor of the State of Kansas, files an affidavit in which he states that he has been entirely familiar with Major Peabody's services, as he was prosecuting a claim at the same time, and he also states that Major Peabody's services were of great value, as Mr. Garland had stated before.

There is abundant evidence here. Governor Crawford gives to Peabody practically the credit of securing the first legislation recognizing that there was some obligation on the part of the Government to pay the claim. He says that Peabody was largely influential in securing the commission, and the Commissioner states that during the two years 1882 and 1883 Mr. Peabody was daily before him in connection with the matter. Mr. Peabody was a merchant, familiar with accounts, books, and figures, and he devoted his time to going through the various files of the Department and making calculations and presenting them to the commission. The Commissioner's statement is here that nearly $300,000—$294,000—was saved to the Indians by those two attorneys alone.

I made the statement—I am always loath to do it—that on the protest of these men I allowed the Commissioner to withdraw his report for revision. It does seem to me that it ought not to be controverted that Mr. Peabody rendered valuable service. The Commissioner says that he did not think his services were valuable, because he did not think the report of the commission amounted to anything; but it was the basis of all the proceedings in the courts and everywhere else subsequently. I repeat, but for the favorable finding there never would have been any claim presented to Congress and the Old Settlers would have lost their claim.

Mr. Bryan, who is a beneficiary, as I stated yesterday, declared after the appropriation was made that Major Peabody had rendered services entirely in accord with his contract. He wrote him a letter to that effect and signed his affidavit, saying that the facts stated in his affidavit were correct. Mr. Bryan is not now contesting the question. He has an attorney here in the city who is representing his claim before the m comittee, and he consents that these people shall have the money and consents to take the balance of it.

Now, what we are contending for I am unable to say, unless, as was suggested yesterday, somebody may think that the Government will confiscate this money and keep it itself. It does not belong to the Indians. It belongs to the attorneys. It is theirs of right, and it ought to be paid to them. They ought not go to the Court of Claims, which is so filled with business that it will be five years before a decision is reached. Old man Bryan will be dead. Some of the rest of them will be dead. They have rendered service, they are entitled to the money, and every year we adjudicate on just such evidence claims aggregating millions and millions of dollars.

The Senator from Utah says we are not the proper tribunal. We every day take cognizance of claims involving as much money as this, because we have the right so to do, and there is no reason why we should not settle this question, which is a mere question between attorneys, and the attorneys themselves agree to the settlement. If the nation is trustee, it is trustee for whom? For the people who are entitled to the money. We are not trustees for the people who are not entitled to it, but for those who are. When all the people who have contracts, as here represented, who have not been paid in full agree among themselves, which they have practically done, there is no reason, and there can be none on the face of the earth, why the claim should not be paid.

I am very certain that if the Senators who have been contesting this claim had known as much then as they know now, probably they would not have contested it so hotly as they have. I know how easy it is when we get into a controversy to bear it out and go through with it. I know that in our own profession it is exceedingly natural that we should, but after all what good can come of sending the claim to the Court of Claims? The division is fair. It is agreed to practically by all. Some of them think they do not get enough. They could not get enough. There is not money enough to give them under their contracts. There have been too many contracts made.

Mr. PLATT. What right has Congress to send these parties to the Court of Claims? How can we oblige the Old Settlers to go into the Court of Claims?

Mr. TELLER. I suppose if we say they have to go there and that we will not do anything else, the poor creatures will have to go there.

Mr. PLATT. It is not a claim against the United States.

Mr. TELLER. It is not a claim against the United States.

Mr. PLATT. It is not a claim against the Cherokee Nation.

Mr. TELLER. It is not a claim against the Cherokee Nation. It is a claim against the fund which we hold as trustees, which we are as capable of settling on the equities of it, the right of it, as the Court of Claims.

Mr. PLATT. The Old Settlers constitute a voluntary association.

Mr. TELLER. That is true. This is nothing more to me than to any other member of the Senate. I happen to be conversant with the services most of these people have rendered. Some of them rendered services in the matter before I got into the Interior Department, like the two gentlemen in North Carolina who are dead. But they rendered the service under a contract which was approved, and they are entitled to as much as they will get, and I have no doubt they are entitled to more.

Mr. Bryan has given thirty-odd years to this matter; he has paid large sums of money and he will not get any extraordinary compensation. The fees are not large as I understand fees. They would not be regarded in my country as especially large, or in Utah, as I recollect, for the amount of service and the time. I think the Senator from Utah would hardly render the service these men have rendered and charge less. Unless attorneys' fees in Utah have fallen in the last fifteen years, he would expect quite as much as it is proposed to give to these people. They are entitled to their money. It would be a great hardship and a great wrong to send them to the Court of Claims. Of course, if Congress says they can not have it without going there that is the end of it, and they will have to go there and fight it out and divide up the money among a lot of attorneys. There will be long litigation and some of the claimants will die before they realize anything from the claims. I believe that the two committees, acting independently of each other, have arrived at practically the same identical conclusion, and I think it is very strange if there can be any better adjudication than that which has been made of the claims by those committees.

Mr. ALLISON. Is there an amendment pending to the amendment of the committee?

The PRESIDING OFFICER. The pending amendment is the amendment proposed by the Senator from Ohio [Mr. SHERMAN] to the amendment of the committee.

Mr. CHANDLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

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

Allen,	Davis,	Lindsay,	Roach,
Allison,	Dubois,	McMillan,	Sewell,
Baker,	Elkins,	Mantle,	Sherman,
Bate,	Faulkner,	Martin,	Shoup,
Brice,	Frye,	Mills,	Teller,
Brown,	Gear,	Mitchell, Oreg.	Turpie,
Burrows,	George,	Mitchell, Wis.	Vest,
Butler,	Gray,	Nelson,	Walthall,
Caffery,	Hansbrough,	Palmer,	Warren,
Call,	Hawley,	Pasco,	White,
Cannon,	Hill,	Perkins,	Wilson,
Carter,	Hoar,	Pettigrew,	Wolcott
Chandler,	Jones, Ark.	Platt,	
Chilton,	Jones, Nev.	Pritchard,	
Clark,	Kyle,	Pugh,	

The PRESIDING OFFICER. Fifty-seven Senators have responded to their names. A quorum is present.

The pending question is upon the amendment proposed by the Senator from Ohio [Mr. SHERMAN] to the amendment of the Committee on Appropriations.

Mr. GEORGE. What is the amendment?

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. In lines 5 and 6, page 56, strike out the words "and not to their assignees"; so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the following persons, immediately upon the passage of this act, out of the balance remaining of the 35 per cent reserved for payment of legal services rendered and expenses incurred, etc.

The amendment to the amendment was rejected.

Mr. CHANDLER. Now I move the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment of the Senator from New Hampshire to the amendment of the committee will be stated.

The Secretary read as follows:

Strike out, on page 56, all after the word "That," in line 4, to and including the words "out of," in line 7; also all from line 18, on page 56, to line 14, on page 57, inclusive, and insert after line 17 on page 56 the following:

"Shall remain in the Treasury, to be available, with 4 per cent interest thereon from said August 23, 1894, for the payment of the claims of the parties legally or equitably entitled to said balance, and all claimants may bring suits therefor in the Court of Claims within three months after the passage of this act and not afterwards, which shall consider all existing evidence in the Interior Department and such other evidence as may be properly taken, and the judgments of said court shall be final and conclusive, without appeal, as to the amount and validity of said claims, and said balance with interest thereon shall be paid out in accordance with said judgments without further legislation by Congress."

Mr. GRAY. I should like to ask the Senator from New Hampshire if it is within the meaning of his amendment that this whole fund shall be distributed by the Court of Claims as a fund or whether they shall be at liberty to decide upon claims against them, and if perchance there should be none established against them, the fund is to remain undistributed to go to the Indians or whoever may be the lawful owners?

Mr. CHANDLER. My amendment contemplates that the Old Settlers will themselves bring suit for this money, and that the various parties who claim to be paid fees from the fund will bring suit, so that the clause as a whole creates an interpleader suit.

Mr. GRAY. Are the Old Settlers capable of bringing suit, may I ask the Senator?

Mr. CHANDLER. I suppose they are, Mr. President.

Mr. PLATT. They certainly are not.

Mr. GRAY. They are not capable in a legal sense. They are not incorporated and a body recognized as a party to a suit in court.

Mr. PLATT. Unless specially authorized by Congress.

Mr. GRAY. Are they specially authorized by Congress?

Mr. PLATT. Not by the amendment.

Mr. GRAY. They ought to be specially authorized, I suggest to the Senator from New Hampshire, to bring that suit.

Mr. PLATT. The amendment to the amendment is, in my judgment, I venture to say, entirely and absolutely inoperative.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New Hampshire [Mr. CHANDLER] to the amendment of the Committee on Appropriations.

Mr. BROWN and Mr. CHANDLER called for the yeas and nays; and they were ordered.

Mr. BATE. Now let the amendment to the amendment be read again.

The Secretary again read the amendment to the amendment.

Mr. PLATT. Now, to show how utterly inoperative that is, just suppose that Belva A. Lockwood, whom the Senator from New Hampshire seems to represent on this floor and to think she is entitled to $80,000——

Mr. CHANDLER. The Senator from Connecticut misapprehends me. He is the representative of Mrs. Lockwood to the extent of a thousand dollars, and I am to represent her only to the extent of $79,000 under those circumstances.

Mr. PLATT. The Senator seemed to be very much troubled because the claim of Mrs. Lockwood had been cut down. Suppose she brings suit for $80,000 and gets the first suit on the docket and recovers that amount, who else is going to get anything of the fund? There is no provision in the amendment that the court shall determine as between the different claimants what portion each shall have. It will simply allow the first person who gets in there and can establish a claim to have it paid, and then the next one, until the fund is exhausted. One or two claims may exhaust the whole of it and the others be left out. It is utterly inoperative.

Mr. CHANDLER. There is no such intention and no such provision, as the Senator very well knows. I suppose the amendment can be expanded so as to make it a bill of interpleader or an interpleader suit, which is certainly what is meant. When the time for the presentation of claims is limited to three months there is no danger that all the parties will not be in court. The Court of Claims is to decide to whom this fund belongs. I think the amendment is sufficient, and it can be amended after it is adopted if it is thought that other words should be added to it to make its meaning clear.

Mr. MILLS. I ask the Senator why he proposes that 4 per cent interest shall be paid?

Mr. CHANDLER. Several Senators have asked me about that. I inserted 4 per cent interest because it is the custom of the United States to pay 4 per cent interest on judgments of the Court of Claims. We ought to have paid this money. Under the circumstances, however, I ask leave to strike out the clause "with 4 per cent interest thereon from August 23, 1894."

The PRESIDING OFFICER. The amendment will be so modified. The question is on agreeing to the amendment of the Senator from New Hampshire [Mr. CHANDLER] to the amendment of the committee, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. HANSBROUGH (when the name of Mr. DUBOIS was called). I am authorized to announce that the Senator from Idaho [Mr. DUBOIS] is paired with the senior Senator from New Jersey [Mr. SMITH].

Mr. GEAR (when his name was called). I am paired with the Senator from Georgia [Mr. GORDON]. He is not present, and I withhold my vote.

Mr. HILL (when his name was called). I am paired with the junior Senator from Massachusetts [Mr. LODGE].

Mr. MCMILLAN (when his name was called). I am paired with the Senator from Kentucky [Mr. BLACKBURN].

Mr. MITCHELL of Oregon (when his name was called). I have a general pair with the senior Senator from Wisconsin [Mr. VILAS], and withhold my vote.

Mr. WALTHALL (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. CAMERON].

The roll call was concluded.

Mr. FAULKNER (after having voted in the affirmative). When I voted I did not know that my colleague [Mr. ELKINS], with whom I am paired, is not in the Chamber. I therefore withdraw my vote.

Mr. GEORGE (after having voted in the affirmative). Has the Senator from Oregon [Mr. MCBRIDE] voted?

The PRESIDING OFFICER. He has not voted.

Mr. GEORGE. I withdraw my vote, as I am paired with that Senator.

The result was announced—yeas 15, nays 36; as follows:

YEAS—15.

Bate,	Chilton,	Kyle,	Sewell,
Brown,	Cockrell,	Mills,	Vest,
Caffery,	Gallinger,	Palmer,	White.
Chandler,	Gray,	Pasco,	

NAYS—36.

Allen,	Clark,	Mitchell, Wis.	Roach,
Allison,	Cullom,	Nelson,	Sherman,
Bacon,	Davis,	Peffer,	Shoup,
Berry,	Frye,	Perkins,	Squire,
Brice,	Hansbrough,	Pettigrew,	Teller,
Butler,	Hawley,	Platt,	Turpie,
Call,	Jones, Ark.	Pritchard,	Warren,
Cannon,	Jones, Nev.	Proctor,	Wilson,
Carter,	Mantle,	Pugh,	Wolcott.

NOT VOTING—38.

Aldrich,	Gear,	Lindsay,	Smith,
Baker,	George,	Lodge,	Stewart,
Blackburn,	Gibson,	McBride,	Thurston,
Blanchard,	Gordon,	McMillan,	Tillman,
Burrows,	Gorman,	Martin,	Vilas,
Cameron,	Hale,	Mitchell, Oreg.	Voorhees,
Daniel,	Harris,	Morgan,	Walthall,
Dubois,	Hill,	Morrill,	Wetmore.
Elkins,	Hoar,	Murphy,	
Faulkner,	Irby,	Quay,	

So the amendment to the amendment was rejected.

Mr. GALLINGER. Mr. President, when this matter was first called to my attention in examining the bill under consideration and after having read a printed brief that had been sent to me, as I presume it was sent to every other member of this body, my

prejudices ran in the direction of looking upon the entire proposition as one devoid of merit if not possessed of the absolute elements of fraud, and I had intended to cast my vote against the amendment of the committee. Since that time I have received a communication from a friend of mine, a man who would not advocate the passage of a bill that was not a just one by this or any other legislative body. He has called my attention particularly to one claim in the list which he insists is entirely meritorious, whether the other claims are meritorious or not.

I have examined the claim thoroughly—

That is, the claim of D. A. McKnight—

and believe it to be without a flaw. Mr. McKnight appeals to Congress from an inequitable ruling of the Secretary of the Interior, which was founded on several mistakes of fact, and I ask you to aid in securing justice for him. The recent protest of the Old Settler delegates against further payments to attorneys excepted cases of "mistake," and Mr. Garrett's protest was leveled at "spurious" claims, which this claim manifestly is not.

Accompanying this letter is a printed brief, which I presume has been prepared by Mr. McKnight, in fact it is signed by D. A. McKnight for the surviving partners, in which the equities and perhaps the law of this case are argued at considerable length. The statement is that—

The claim made by D. A. McKnight was originally for $16,007.72, or 2 per cent of the appropriation of $800,386.31 for the "Old Settlers" or Western Cherokee Indians (Senate Executive Document 77, Fifty-fourth Congress, first session, page 9), of which but $4,000 was paid by the Secretary of the Interior (ibid, page 3). The claim now made is for the difference between the said sums, or $12,007.72.

The grounds upon which the claim rests are the errors committed by the Secretary of the Interior in reaching his conclusion as to the value of the services of the late E. John Ellis, a member of said firm of Ellis, Johns & McKnight, and who rendered most of the services for which this compensation is prayed. Said errors were the following:

1. Mistake of fact, in that the Secretary has found that the services of said E. John Ellis, though "of the most meritorious character"—

That is a quotation from the Secretary—

"were not of long duration, for he died a few months (namely, four) after he was employed in the case"; whereas the record shows that he was employed in the case at least sixteen months before his death, and his services were therefore reasonably worth four times the valuation which the Secretary has placed on them, or $16,000.

2. Mistake of fact, in that the Secretary has found said Ellis's services to be of the value of $4,000 only, while finding the services of W. W. Wilshire, whose "most valuable service" was his work in connection with the first reference of the claim to the Court of Claims under the Bowman Act and in prosecuting it there, to be worth $13,500; whereas said Ellis's most valuable work was in procuring the second reference to said court by act of Congress, after it had been reported adversely by the House, and in preparing the petition in said court, and was therefore reasonably worth more than said Wilshire's work.

3. Mistake of fact, in that the Secretary has found said Ellis's services to be of the value of $4,000 only, while finding the services of W. W. Wilshire and A. H. Garland to be of the aggregate value of $28,500; whereas the Indians themselves fixed the value of Wilshire's services at $40,000, and, since after his death said Ellis and Garland rendered the remainder of the services which he had engaged to perform, the services of Ellis were therefore reasonably worth more than $11,500.

4. Mistake of fact in that the Secretary has (implicitly) found that the services of said Ellis were rendered under an individual employment and not under an employment of the firm; whereas the employment was clearly of the firm, as well understood by said Ellis, by said Johns and McKnight, and by Bryan, the "Old Settler" agent; and, the contract entered into never having been revoked, and the several members of said firm having partially rendered, and being always able, ready, and willing to render the full services stipulated for, said firm were justly entitled to the $16,000 provided for in said contract.

Following this statement is an argument of each of the points made, which I will ask to have inserted in the RECORD without reading. I think the matter is discussed very intelligently, and to my mind it is discussed very conclusively:

First. The Secretary erred in finding the period of E. John Ellis's services to be of short duration, or about four months altogether, whereas they extended over sixteen months at the least, were "of the most meritorious character," and were reasonably worth $16,000.

In regard to compensation for the services rendered by Mr. Ellis the Secretary's decision is as follows (ibid., page 25):

"The proof shows that this claim is of the most meritorious character. To be sure, the services of Mr. Ellis were not of long duration, for he died a few months after he was employed in the case. I do not think, under the circumstances, that the representatives of Mr. Ellis are entitled to a very considerable compensation for his services. * * * I am of opinion that the estate of Mr. Ellis should be allowed the sum $4,000 in full for his services."

The Secretary's mistake undoubtedly arose from his reliance on the report of the Commissioner of Indian Affairs, which took December 15, 1888, the date of a certain written contract with Mr. Ellis, as the date of his employment. This date was so taken under a ruling of the Attorney-General that under sections 2103–2105, Revised Statues, only services rendered "after the date of the contract" could be considered (ibid., page 17), and the Commissioner accordingly found that "there were but little over four months between the date of Mr. Ellis's contract and his decease" (ibid., page 18). The Commissioner further strenuously contended that sections 2103–2105, Revised Statutes, controlled the disbursement of the fund set apart for the payment of the fees of attorneys (ibid., page 10), but in this he was overruled by the Secretary (ibid., page 24), who held that the appropriation act, authorizing payment "for legal services justly or equitably payable on account of said prosecution," contemplated not only services rendered upon contracts executed under the Revised Statutes, but "under agreements not strictly within the requirements of the Revised Statutes, which gave just and equitable claims on the Old Settler Cherokees for professional services." This ruling justified payment for professional services rendered before the date of the written contract, and under it the services of Jones and Voorhees so rendered (ibid., pages 8 and 9) were paid in full. This ruling and this precedent required the Secretary to pay for E. John Ellis's services so rendered, and he undoubtedly would have done so had he not overlooked the facts in the record, which are as follows:

1. The contract of December 15, 1888, between J. M. Bryan and E. John Ellis recites that services had been rendered by said Ellis prior to its date (Senate Executive Document No. 18, Fifty-second Congress, second session, page 67):

"Whereas the said J. M. Bryan is desirous of securing the services of the said E. John Ellis in the future, and to remunerate him for services rendered in the past," etc. * * * "And in consideration of the services heretofore rendered by the said E. John Ellis, and the services hereafter to be rendered and performed by him," etc.

2. Said contract also recites that Mr. Ellis's employment was "as assistant counsel or attorney to prosecute said claim before the proper committees of Congress," etc. The Committees on Indian Affairs of both the House and Senate had reported favorably on February 7, 1888, or more than ten months before (Fiftieth Congress, first session; Senate Report 217; House Report 342).

3. Hon. H. L. Dawes, then chairman of the Senate committee, and Hon. S. W. Peel, then chairman of the House committee, both certify to Mr. Ellis's services before their respective committees "while they had the subject under consideration."

SENATE OF THE UNITED STATES,
Washington, D. C., April 21, 1892.

MY DEAR SIR: I knew the late E. John Ellis very well, and had a very high personal regard for him. I knew that he interested himself very much in the prosecution of the claims of the Old Settlers or the Western Cherokee Indians, and acted precisely as if he was counsel in the case. He frequently consulted with me upon the subject, and with other members of the committee. I am not sure that he ever appeared before the full committee in any hearing that was had in their behalf, for I do not remember of any special hearing. The matter was considered by the committee, and Mr. Ellis and others interested in it presented their views mostly to the committee individually.

I am, truly yours, H. L. DAWES.

D. A. MCKNIGHT, Esq., *1416 F street, City.*

—

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., February 22, 1890.

FRIEND MCKNIGHT: Yours received. E. John Ellis, late of your firm, appeared frequently before the sub and full Committee on Indian Affairs, House of Representatives, as attorney for the Western Cherokees, or Old Settlers, in prosecution of a bill to refer said claim to Court of Claims United States. He rendered all the service that an attorney at law could have done.

Respectfully,

S. W. PEEL.

—

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., April 20, 1892.

DEAR SIR: In regard to the bill passed by the Fiftieth Congress conferring jurisdiction upon the Court of Claims to determine the rights of the Old Settlers, or Western Cherokee Indians, I am requested by the friends of the late E. John Ellis to refer to the part he took as attorney in the prosecution of the claim.

The firm, I think, was Ellis, McKnight & Johns. I can say that Mr. Ellis was very zealous in the prosecution of the claim; it was one he had had under his control, as I understand it, for many years. He frequently appeared before the Committee on Indian Affairs of the House in its interest, and made an argument before the subcommittee of which I was chairman, and was very efficient in getting up the law and data to submit to Congress. After our committee had come to the conclusion that it was a meritorious claim, or sufficiently so to go to the courts, Mr. Ellis appeared before the whole committee and presented it in a more forcible manner than I had ever seen it done before. There is no doubt but what he rendered valuable service, and I believe he did all any lawyer could under the circumstances.

Respectfully, S. W. PEEL.

THE SECRETARY OF THE INTERIOR, *Washington, D. C.*

4. The affidavits of the late John Johns and D. A. McKnight (Ibid, pages 61, 58) aver their personal knowledge of Mr. Ellis's assiduous efforts in Congress; and another affidavit of D. A. McKnight (copy herewith filed) explicitly avers his knowledge of Mr. Ellis's services "for many months, and, as affiant is informed and believes, for more than a year prior to the date of said contract."

There is no denial or attempt to deny Mr. Ellis's said valuable services before the committee of Congress except the following statements by Mr. Bryan:

"The late E. John Ellis did no service in the prosecution of the said claim."

"Mr. Ellis rendered no service in procuring the passage of this bill, to my knowledge or to the knowledge of the Old Settlers or Western Cherokees."

"Affiant and the said Wilshire worked energetically and successfully to secure the passage of the said bill until the death of said Wilshire, affiant continuing thereafter to care for said bill."

The first of these statements is absurdly false, and is so proved by the contract itself. The second statement is limited to Bryan's personal knowledge, and the third is not a denial that Mr. Ellis also aided in the matter. They do not shake the positive evidence hereinbefore recited.

Said evidence shows conclusively that Mr. Ellis was engaged in serving the Old Settlers for at least a year before the date of his contract, which period the Secretary did not consider in valuing his services. Since the Secretary has found four months' service to be worth $4,000, on the same basis a reasonable value for sixteen months' service would be $16,000.

Indeed, the most valuable part of Mr. Ellis's services were in procuring the favorable reports of the committees, for it is to be remembered that, notwithstanding the favorable finding of the Court of Claims under the Bowman Act, the House committee had reported against the claim in the Forty-eighth Congress, second session (House Report 2651), and the Forty-ninth Congress had done nothing to forward its progress.

Second. The Secretary erred in finding the services of E. John Ellis to be of the value of $4,000 only, whereas, being similar to and more valuable than the recognized services of W. W. Wilshire, which were found to be worth the sum of $13,500, they were reasonably worth the sum of $16,000.

The Commissioner has carefully discussed the services rendered by Mr. Wilshire (Senate Executive Document 77, pages 12 and 13), and his conclusion of fact is as follows:

"The most valuable service that was rendered by Mr. Wilshire was, therefore, in connection with the reference of the case to the Court of Claims for a finding of fact and the prosecution of the matter in the court under that reference, he having died before it was referred to the courts for adjudication by the Congress."

This reference of the claim to the Court of Claims was by the Committee on Indian Affairs for a report under the Bowman Act, and it need hardly be urged that the amount of work required to procure such a reference was vastly less than that required to pass a bill through Congress a second time referring the claim to that court for adjudication. In obtaining the former of said references, Mr. Wilshire appears to have been aided by Hon. John T. Heard, who also, in connection with Hon. John W. Douglass, aided him in

preparing the cause for trial, as appears by Mr. Heard's affidavit filed in the Interior Department in connection with this claim, as follows:

"John T. Heard, being duly sworn, deposes and says that he, together with the late W. W. Wilshire, procured the reference by a committee of Congress of the claim of the Old Settlers against the United States to the Court of Claims for the findings of facts under the Bowman Act, and that later he, together with said Wilshire and assisted also by John W. Douglass, prepared said cause for trial, and that on January 29, 1885, the said Heard argued the same in said court."

For their said services Wilshire (and his assignee, Mr. John A. Sibbald) were paid $13,500, Heard was paid $10,000, and Douglass was paid $2,500, or an aggregate sum of $26,000 (Ibid., page 2).

The Commissioner has found (Ibid., page 17) that Mr. Ellis "did perform some services in connection with the passage of that bill," and that he was interested in the preparation of the petition filed in the Court of Claims as "consulting attorney" and as "attorney of record" (Ibid., page 18). The affidavits of Messrs. Johns and McKnight (Senate Executive Document No. 18, pages 58 and 61) show that Mr. Ellis's efforts contributed to if not mainly procured the passage of said bill, and were of essential service in the preparation of the case for the Court of Claims.

The affidavit of Hon. John W. Douglass, on file in the Interior Department, is to the same effect, as follows:

"Mr. McKnight has called my attention to the fact that in addition to the meetings at the office of Jones and Voorhees there were several meetings also on the same business at Mr. Ellis's office. The meetings at Mr. Ellis's office did occur (two or more of them); but as my affidavit made on the 28th of August, 1894, was made simply to show the part taken by Jones and Voorhees, I did not think it necessary to refer at any length to the part taken by Mr. Ellis.

"My recollection is that Mr. Ellis was looked to largely to take care of the matter before Congress and its committees, being considered very competent in such cases."

It was also shown by the affidavit of D. A. McKnight, above referred to (copy herewith, page 4), that Mr. Heard has personally stated that said bill was "put through" by Mr. Ellis.

There is no denial or attempt to deny Mr. Ellis's said valuable services in passing the bill referring the claim to the Court of Claims, in preparing the petition for the court as consulting attorney, and in signing said petition as attorney of record (for which his retainer would reasonably be worth $2,500), except the following from the affidavit of Mr. Bryan above referred to:

"That at the date of the said contract (i. e., December 15, 1888) the work necessary to and which in fact did secure the passage of the bill had been done."

This statement is absolutely false, being flatly contradicted not only by Byran's contract with Mr. Ellis, but by the letters of the chairmen of the respective Committees on Indian Affairs (above quoted, page 5), and by all of the affidavits just above recited.

It is submitted, therefore, that if the above-mentioned services of Messrs. Wilshire and Sibbald (in aiding the reference of the claim to the Court of Claims and the preparation of it there) were worth $13,500—and it is conceded that they were actually worth much more—then the services of Mr. Ellis were reasonably worth the sum of $16,000.

Third. The Secretary erred in finding the services of E. John Ellis to be of the value of $4,000 only, whereas the Indians themselves fixed the value of the services of said Wilshire before Congress and in the courts at $40,000, and Ellis aided said Wilshire in Congress, and Wilshire having died before the passage of the bill referring the case to the courts, Mr. Ellis was in charge of said bill thereafter, and aided in the preparation of the case for court, and he having died, Hon. A. H. Garland argued the case in court, for which services Wilshire and Garland were paid the aggregate sum of $28,500; wherefore said Ellis's services are reasonably worth more than the difference between $28,500 and $40,000, and are worth at least $16,000.

Mr. Ellis's employment was not intended to require him to perform all the work necessary to collect the Old Settlers' claim, but was to be rendered "in connection with such other counsel or attorneys as have been or may hereafter be employed" (Senate Executive Document No. 18, page 67). During his employment he was associated, as the record shows and as was contemplated by said contract, with Messrs. Wilshire, Sibbald, Douglass, and Jones and Voorhees, and upon the death of Mr. Wilshire, Ellis rendered services in his stead, and upon the death of Mr. Ellis, Mr. Garland was employed. Since the services of Messrs. Wilshire, Sibbald, and Garland have been valued at $28,500 (Senate Executive Document No. 77, page 2), it reasonably follows that, upon the estimate of the Indians themselves, the services of Ellis would be worth the difference between said amount and the $40,000 contracted for, namely, $11,500. And, since Ellis's services in passing a reference bill were necessarily greater than Wilshire's services in obtaining the Senate committee's resolution, as above pointed out, it would follow that said services were reasonably worth $16,000.

Fourth. The Secretary erred in finding that the firm of Ellis, Johns & McKnight rendered no services to the Old Settlers, but that they were rendered by E. John Ellis alone, under a contract of employment for his individual services, whereas the record shows as a matter of fact that the employment was of the firm; and since the surviving members of said firm tendered their services to the Old Settlers, and were always able, willing, and ready to render them, and were not discharged from said employment, said firm is reasonably entitled to the full contracted sum of $16,007.72.

The Commissioner has found (Senate Executive Document No. 77, page 17), and the Secretary apparently concurs in the finding (ibid., page 25), in regard to the claim of D. A. McKnight in behalf of said firm, upon the evidence then before him, as follows:

"It seems to me that in view of the well-known rule that a client may contract with a firm of attorneys for the individual services of one partner, and the conduct of Mr. Bryan, the representative of the Old Settlers or Western Cherokees, in making this contract, which clearly shows, if it does not so declare, that his intention in making the said contract was to secure the individual services of Mr. Ellis in this case, I think Mr. McKnight has not sufficiently shown that it was understood by Mr. Bryan, Mr. Ellis, and other members of his firm that this was a firm contract to sustain his claim."

The "rule" stated by the Commissioner is well settled, but there must always be evidence proving it, because the presumption of law is that the contract of one partner is the contract of the firm.

There is no doubt that the contract of December 15, 1888, made under section 2103, Revised Statutes, was made in the name of E. John Ellis, but there is nothing whatever in the terms of said contract, further than the use of Ellis's name with the appropriate pronouns "him" and "his," which indicates that it was the intention of either party to contract for the personal services of Mr. Ellis alone (Senate Executive Document No. 18, page 66). If the original employment had not been thus provided for in a written contract, there is no doubt that it would be regarded as a firm employment, and the service in Congress rendered by Mr. Ellis acting for the firm, the burden being on him denying that it was a firm employment. Hence the written contract is fairly subject in this respect to an explanation by the parties interested, and that it is had as follows:

1. The contract in terms provides for the payment for the services "heretofore rendered and hereafter to be rendered" to "the said E. John Ellis, or his legal representative or assigns." After Mr. Ellis's death said contract was assigned by his administratrix to John Johns and D. A. McKnight, surviving partners, as part of the assets of said firm. (Ibid., page 68.) This action of the administratrix is conclusive of her opinion that the proceeds of said contract were firm assets.

2. The late John Johns has explicitly testified that in dealing with Mr. Bryan in this matter Mr. Ellis was "acting for and on account of his firm," that it was customary for contracts of the firm to be made "in the names of the individual members of the firm," that "this piece of professional business belonged to the firm," that Bryan offered the firm "$1,500 in satisfaction of their claim under said contract," and that the surviving partners tendered their services, which were rejected, but that they were never discharged and were always able, ready, and willing to perform said services. (Ibid., page 61.)

3. Mr. D. A. McKnight has explicitly testified that this contract was made in Mr. Ellis's name in conformity with a custom obtaining in the firm; that it was so made with his knowledge and consent, and that Mr. Ellis advised him that he intended to assign it to the firm; that Mr. Bryan was fully advised of the fact "that his business was firm business," and that "he led affiant to believe that he regarded him as one of his consulting attorneys"; that it was agreed that Ellis should have charge of this business in Congress, that Mr. McKnight should prepare the case for the courts, and that both of them should argue it there; that in a conversation with Bryan subsequently to Mr. Ellis's death he did not deny "the firm's interest in the business" or allege "that said Ellis was employed personally or that the firm was not employed," but admitted the firm's employment, and that the surviving partners tendered their services to Mr. Bryan, which were rejected, but that they were not discharged from the case, and that they were always able, willing, and ready to perform said services. (Ibid., page 58.)

4. Confirmatory of the foregoing statement is the following letter from the Hon. S. W. Peel, which was recently put into the record by Mr. Bryan:

"DEAR UNCLE JOEL: I saw Mr. McKnight, of the law firm of E. John Ellis, Johns & McKnight, to-day. He tells me that Ellis handed the papers in the case over to him, with request that he attend to it in court, and said that he would tell him all the facts in a day or so, but died before he did so. Now, he wants you to come to Washington as soon as you can and post him on the facts, so that he can go to work. I think you had better come and push the case along. I wrote you at Selim, but, thinking you might be at the council, write this.

"S. W. PEEL."

5. In further explanation of the nature of the employment, Mr. McKnight has explicitly testified (affidavit herewith, page 5), as follows:

"Affiant reiterates what he has heretofore stated in his affidavits, that as a matter of fact Joel M. Bryan employed the firm of Ellis, Johns & McKnight as counsel for the Old Settler Indians, and that while he undoubtedly expected to have advantage of Mr. Ellis's skill and ability in Congress and the courts, he never did intend to employ him alone, or to make a contract with said firm for said Ellis's special services. And affiant further says that the contract executed December 15, 1888, was made in the name of E. John Ellis, not at the instance or request of Mr. Bryan, but at the instance and request of E. John Ellis himself, for his benefit and not for Bryan's, and with the full knowledge and consent of affiant, and with the expressed intention of said Ellis to subsequently assign to the firm."

There is no denial or attempt to deny any one of the material averments above recited, except in the following statement by Mr. Bryan in one of his affidavits:

"Mr. Ellis's contract was made, I think, in December of 1888. It was made with him personally and not with his firm."

It needs no argument to enforce the proposition that Bryan's said statement is a denial of something which was never affirmed by the surviving partners, for, as above stated, it is plain that as a matter of fact the written contract was made with Mr. Ellis and not with the firm. But as a matter of fact it is equally plain upon the uncontradicted testimony above recited that the employment and the services rendered under it were the employment and services of the firm, and that said contract was made in Mr. Ellis's name, at his instance, and for his benefit, and not at the instance or for the benefit of the Old Settler Indians. And as a matter of law it is clear that the reduction of the contract to writing in the name of E. John Ellis alone would not alter the nature of the employment or the legal relationship of the parties, unless it was their intention to so alter or modify them, of which there is no indication in the testimony.

It is submitted that upon the record facts, as above shown, the Commissioner of Indian Affairs was not justified in finding that the services rendered by Mr. Ellis were under an individual employment, and the Secretary was not justified in concurring with him. Wherefore it is submitted that the surviving partners, having been able, willing, and ready to render necessary services in the courts, and having tendered them to said Indians, are entitled to the full stipulated compensation of $16,007.72.

The propositions of law upon which this claim rests are fully recited in the brief heretofore filed in behalf of said claim (Senate Executive Document No. 18, pages 63 and 64).

A person may expressly contract with a firm of lawyers for the individual services of one partner. (Smith *vs.* Hill, 8 Eng. Ark., 173.)

If a person is engaged in no other business, his contract is presumed to be the contract of the firm. (Oliphant *vs.* Matthews, 16 Barb., 608; Mifflin *vs.* Smith, 17 S. & R., 165; Etheridge *vs.* Binney, 9 Pick., 272; Bank of Rochester *vs.* Monteath, 1 Denio, 402.)

A contract by one partner about the firm's business is the contract of the firm, unless the partners agree that one of the firm only shall be bound by it. (Collyer on Partnership, chapter 20.)

If one partner in a law firm treats a retainer as the firm's, the presumption is that it was a retainer of the firm. (Harris *vs.* Pearce, 5 Brad. Ill., 622.)

It is a firm contract if the custom was for the partner making it to use his own name. (Collyer on Partnership, section 412.)

The name of one member of a firm may be used as a firm name by consent of the partners. (Collyer on Partnership, section 411; Bank of Rochester *vs.* Monteath, 1 Denio, 402; Winship *vs.* Bank of United States, 5 Pet., 529, 561; Straus *vs.* Waldo, 25 Ga., 641; Thielan *vs.* Haun, 27 Kans., 778; Mercantile Bank *vs.* Cox, 38 Me., 500; Etheridge *vs.* Binney, 9 Pick., 272.)

The dissolution of a firm prevents new engagements, but prior engagements must be fulfilled. (Story on Partnership, chapter 14; Fereira *vs.* Sayers, 40 Am. Dec., 496.)

Notwithstanding the death of a partner, the partnership continues in respect of all unfulfilled engagements. (Johnson *vs.* Totten, 58 Am. Dec., 412; Western Stage Company *vs.* Walker, 65 Am. Dec., 789.)

If attorneys, copartners, accept a retainer the contract continues to the termination of the business, notwithstanding the dissolution of the firm; the dissolution affects new business only. (Weeks, Attorneys at Law, section 191.)

A contract to prosecute a claim for a share of the proceeds is not terminated by the death of the owner or by the dissolution of the partnership. (Wylie *vs.* Coxe, 15 How., 415; Jeffrey *vs.* Mutual Life Insurance Company, 110 U. S., 305.)

Where a firm of attorneys has contracted with a client for the personal

services of one of their number who dies before the entire rendition of the services, the client can not break the contract with the surviving partners without tendering them a fair compensation for the services rendered, and if the survivors render the remaining services with skill and diligence they are entitled to the entire fee. (Smith *vs.* Hill, 8 Eng. Ark., 173.)

If the completion of the attorney's services is prevented by the client, their noncompletion is no defense to an action on the contract. (Brodie *vs.* Watkins, 34 Am. Rep., 59; Rawson *vs.* Earle, Moody & M., 538; Van Sandan *vs.* Brown, 9 Bing., 402.)

Even where an attorney without cause is dismissed he may entitle himself to the whole fee stipulated for by a continuing tender. (Cantrell *vs.* Chinn, 5 Sneed, 166.)

Respectfully submitted.

D. A. McKNIGHT,
For Surviving Partners.

I have had my attention this moment called to the fact that a report has been made by the Committee on Indian Affairs of the House of Representatives, under date of April 16, 1896, which committee, I understand, finds in favor of this claim.

I do not desire to occupy the attention of the Senate unnecessarily in the discussion of this question. What I rose to say more particularly is, that I trust in taking the vote on these several claims in the amendment they may be separated and that the vote may be taken upon each claim upon its own merits. I have an impression that some of these claims, never having been submitted to the Secretary, never having been considered by him, or adjudicated by him, stand in a very different attitude from the claim to which I have called the attention of the Senate. Whatever action I take on some of the other claims, I certainly want to record my vote in the affirmative so far as the claim of McKnight is concerned. I believe it it is a claim full of equities. I think it ought to be paid, and I know of no better way to get it paid than to put it on this bill. For that reason if no one else makes the suggestion, when the vote is to be taken on these claims I shall ask for a separate vote upon the claim of D. A. McKnight.

Mr. CHANDLER. I ask my colleague if he knows any reason why a sixteen-thousand-dollar claim upon which $4,000 has been paid should be settled at $1,000?

Mr. GALLINGER. I do not know that I quite understand the question.

Mr. CHANDLER. I will say that the original claim was 2 per cent, which would be $16,000. He has been paid $4,000. Now, upon what principle should he be paid only $1,000?

Mr. GALLINGER. I do not understand that it is only $1,000.

Mr. CHANDLER. There is $1,000 given in the amendment of the committee.

Mr. GALLINGER. I have not examined the amendment very carefully, but in the brief which I have read, submitted by Mr. McKnight, he speaks of a balance between $4,000 and $16,000.

Mr. CHANDLER. The Senator will understand that one of the criticisms I made of the amendment of the committee is that we are called upon to deal with $16,000, upon which $4,000 has been paid, and where only $1,000 is the amount appropriated. I can not understand why $1,000 is to be paid. The Senator from Colorado told me that it is to be paid because McKnight is satisfied with it.

Mr. GALLINGER. As I said in my remarks, Mr. President, I confess I have not seen the bill recently. I have been called from the Senate and did not even hear the entire speech of my colleague, which I was listening to very attentively when I left; but the brief submitted by Mr. McKnight says, and I base my observations upon this brief, that—

Four thousand dollars was paid by the Secretary of the Interior. The claim now made is for the difference between the said sums, or $12,007.72.

Mr. CHANDLER. The difficulty is that the committee only put in $1,000, and there is no way for Mr. McKnight to get the rest.

Mr. GALLINGER. I quite agree with my colleague, if that is so. I supposed the balance was provided for in the bill; I had not examined it. I simply based my remarks upon what the brief of Mr. McKnight, submitted to individual members of the Senate, stated.

I voted to send this entire list of claims to the Court of Claims. I think that would have been a very proper tribunal to investigate and determine the entire question. That failed of adoption, and now that the matter is before the Senate, I do not know how I can, under the circumstances, do justice to this man, with the feeling that I have that he ought to have the balance between $16,000 and $4,000; but I shall endeavor to reach a conclusion on that question before it comes to a vote.

Mr. PETTIGREW. The claim of Mr. Ellis is no more meritorious than all the others. A sum of money is to be distributed, $79,000 on claims amounting to about $200,000. The committee did the best they could in this respect. It appears that the service of this man Ellis, although he had made a claim which was meritorious, was of very short duration, for he died a few months after he was employed in the case. The Secretary of the Interior under those circumstances thought that $4,000 was an entirely adequate compensation for the services performed for the few months of work Mr. Ellis did before he died. This percentage that is to be paid to Ellis was based upon continuous service until the claim was allowed. He had no opportunity to earn the money, yet the committee under the circumstances thought he was entitled to $1,000. We tried to do what was equitable in adjusting this matter and we took into consideration the equities of his claim and the equities of all the other claims and agreed to give him $1,000 and the others the amounts stated in the bill. I do not believe that the Senator or anybody else would be able to make a better or a more fair adjustment of this matter than has been done.

Mr. CHANDLER. What is the principle which gave Mr. McKnight $1,000 instead of $12,000?

Mr. PETTIGREW. The principle of equity, the principle of service, the principle of fair dealing, to divide what there was among the claimants—the principle which does not apply to anything in New Hampshire.

Mr. GALLINGER. That does not apply to New Hampshire, I will say to the Senator.

I want to call the Senator's attention to the fact that he makes a broad declaration that Mr. Ellis only performed four months' service. There seems to be a good deal of testimony that he performed sixteen months' service, instead of four.

Mr. PLATT. There is no question but that the contract was certified in December, 1888, and Mr. Ellis died on the 20th of April, 1889, about four months; but his contract was signed, and it could not have been approved by the Secretary of the Interior before it was signed.

Mr. CHANDLER. But he had been rendering service for fourteen months before.

Mr. PLATT. It is possible that previous to the time when he made the contract for this service he might have rendered some service.

Mr. GALLINGER. I think that it is an undisputed and an indisputable fact that he had rendered partial service, and that that had been taken into account. It does seem to me that in the equitable distribution of this fund it is an extraordinary thing to give a particular claimant one-twelfth of the claim after other claimants have been given a much larger proportion.

From the report of the House committee I will read a single paragraph:

And while it is true that this committee has recommended the passage of the bill for the relief of Voorhees and Jones, and one for the relief of S. W. Peel for defeating the various claims against the Old Settler Cherokee Indians, which your committee believes should have been defeated, and those bills in part were based on the fact that the claim of David A. McKnight, who represents the estate of Mr. Ellis, was reduced; yet, in view of the fact of the great services rendered by Mr. Ellis, your committee believe that his estate should have been paid in full for the services rendered by him, and it was admitted by the attorney for the Old Settlers that this estate should have been paid at least $8,000 for his work.

There is other evidence, and quite a good deal of evidence, in the brief which I submitted to be printed in connection with my remarks, showing that Mr. Ellis did render service for a much longer period than four months, and that that fact was taken into consideration when this bill was submitted. I think the amount allowed in this bill for Mr. Ellis is out of any proportion to the value of his services, and yet possibly, if this matter goes to conference, justice may be done through a conference committee to all the claimants, for whom I make this appeal and against whom I think the worst kind of discrimination has been exercised by the committee.

Mr. BROWN. Mr. President, I rise to a point of order on this amendment. The entire amendment of the committee of the Senate is contrary to the fourth clause of the sixteenth rule, which I will read:

4. No amendment, the object of which is to provide for a private claim, shall be received to any general appropriation bill, unless it be to carry out the provisions of an existing law or a treaty stipulation, which shall be cited on the face of the amendment.

This seems to be a general appropriation bill; these are all private claims, and the amendment is not to carry out the provisions of any existing law or any treaty stipulation. I therefore submit the point of order, Mr. President, that the entire amendment is out of order.

Mr. TELLER. This is to carry out an existing law. We made an appropriation of this money, and this is to make a distribution of it. It has never been held at any time that such a provision was within the rule invoked by the Senator.

Mr. PLATT. The point of order comes too late.

The PRESIDING OFFICER. The Chair finds, by reference to the act making appropriations to supply deficiencies for the year ended June 30, 1894, and prior years, among other provisions in that act, the following:

The Old Settlers or Western Cherokee Indians, by Joel M. Bryan, William Wilson, and William H. Hendricks, commissioners, and Joel M. Bryan, treasurer, etc., $800,386.31; and the Commissioner of Indian Affairs is directed to withhold from distribution among said Indians only so much of that part of the said judgment set apart by the said Indians for the prosecution of their claim as is necessary for him to pay the expenses, and for legal services justly or equitably payable on account of said prosecution.

The Chair thinks the amendment is in execution of existing law, and therefore overrules the point of order. The question is upon the amendment of the committee.

The amendment was agreed to.

Mr. PETTIGREW. I think we had now better take up and dispose of the school question, which was put over on account of the absence of some Senators who have now returned.

The PRESIDING OFFICER. The Secretary will state the pending amendment.

Mr. PETTIGREW. I think it is the amendment of the Senator from Missouri [Mr. COCKRELL].

The SECRETARY. Instead of the amendment proposed by Mr. CARTER, it is proposed, after the word "Alaska," in line 20, on page 58, to insert:

And it is hereby declared to be the settled policy of the Government to make no appropriation whatever for the education of Indian children in any sectarian school just as soon as it is possible for provision to be made for their education otherwise, and the Secretary of the Interior is hereby authorized and directed to make such provision at the earliest practicable day, not later than July 1, 1898: *Provided*, That the Secretary of the Interior may make contracts with present contract schools for the education of Indian pupils during fiscal year 1897, but shall only make such contracts at places where nonsectarian schools can not be provided for such Indian children and to an amount not exceeding 50 per cent of the amount so used for the fiscal year 1895.

Mr. PLATT. It is stated that that amendment is a substitute for an amendment proposed by the Senator from Montana [Mr. CARTER].

The PRESIDING OFFICER. Including the amendment of the Senator from Montana.

Mr. PLATT. I wish it may be stated for what the amendment which has been read at the desk is a substitute?

The PRESIDING OFFICER. The Chair understands it is a substitute offered by the Senator from Missouri [Mr. COCKRELL] for the amendment proposed by the Senator from Montana [Mr. CARTER].

Mr. PLATT. Let that amendment be stated.

The PRESIDING OFFICER. The amendment proposed by the Senator from Montana [Mr. CARTER] will be stated.

Mr. CARTER. I accept the substitute of the Senator from Missouri [Mr. COCKRELL] and withdraw my amendment.

The PRESIDING OFFICER. The Senator from Montana withdraws his amendment. The pending amendment will be stated.

The SECRETARY. It is proposed to strike out all after the word "Alaska," on page 58, line 20, down to and including the amendment which followed the word "schools," on page 59, line 3.

Mr. COCKRELL. To the proviso after the word "schools."

Mr. GALLINGER. I should like to hear that amendment read once more, and I should like to ask the Senator from Missouri—my attention had been called away from this matter—if he proposes to strike out the language after the word "Alaska," in line 20?

Mr. COCKRELL. I propose to strike out the words after "Alaska," in line 20, on page 58, down to and including the word "schools," in line 3, on page 59.

Mr. GALLINGER. I should like to hear the amendment read once more. My attention was called away from it.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to strike out all after the word "Alaska," in line 20, on page 58, down to and including the word "schools," in line 3, on page 59.

Mr. COCKRELL. I understand that an amendment has already been made there at the instance of the Senator from Kansas [Mr. PEFFER]. I move to strike that out also. I ask that the amendment be read.

The SECRETARY. The amendment adopted was inserted after the word "schools," in line 3, on page 59, as follows:

And in any case, if such there be, where the provisions of this act shall operate to deprive Indian children of present school facilities, the Secretary of the Interior is hereby authorized to provide such temporary school accommodations, including teachers, as may be necessary for the time being, and report to Congress at the opening of the next regular session.

Mr. COCKRELL. I wanted to include that and leave in the proviso beginning in line 3, on page 49.

Mr. PLATT. That amendment has been adopted, has it not?

The PRESIDING OFFICER. It has been.

The Secretary again read the amendment submitted by Mr. COCKRELL.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GALLINGER. Mr. President, a few days ago I had occasion to submit some brief observations touching the matter of the appropriation of public money for sectarian purposes. At that time I was laboring under a disability to the extent of not knowing precisely what the facilities of the Government were for taking charge of and educating its wards, the children of Indians in the United States. Subsequently the distinguished Senator from Iowa [Mr. ALLISON], the chairman of the Committee on Appropriations, spoke at considerable length on this question, and, if I understood him correctly, and I think I did understand him, he stated to the Senate that evidence had been submitted to the committee that under existing conditions the Government could care for and educate every Indian child in the United States.

If that be so, I do not see why we should waste time or pass votes for the purpose of bringing about a different condition of things and diverting the money of the people of the United States into sectarian channels. If, on the other hand, it can be shown conclusively that, under the bill as it came from the House of Representatives, any considerable number of Indian children would be deprived of the advantages of education which they have heretofore enjoyed, I should be strongly in favor of standing by the amendment which has already been incorporated in the bill which was submitted by the Senator from Kansas [Mr. PEFFER]. It seems to me, if we are going to do anything other than what the House of Representatives has done, if we provide that the Government shall care for children who may be deprived of education under this bill, providing teachers for them, providing schoolhouses for them, and doing whatever is necessary to give them an education, when we have done that we have gone far enough.

I simply add this single word for the purpose of saying, in the first place, that my mind has not been changed in the least by the discussion; that I still believe it will be the part of wisdom and good legislation for the Senate to take up the provisions of the House bill precisely as they came to this body. I can not believe that the committee of the House of Representatives and the House of Representatives itself has sent to the Senate a bill which is going to wrong any considerable number of people in the United States whom we are bound by equity and by justice to take care of; and the plain, unvarnished, unqualified statement of the distinguished chairman of the Committee on Appropriations of the Senate to the effect that if this bill is passed precisely as it came from the House of Representatives no harm will be done, no wrong will be done to any Indian child in the United States, it seems to me, ought to be a sufficient answer to all the arguments that we ought to depart from the policy which the House of Representatives laid down when it passed this bill.

I understand that the conclusion reached by the Committee on Appropriations, or by the distinguished chairman of the Committee on Appropriations, that if this bill is passed no harm will be done to any Indian child, is based upon statements made by the Commissioner of Indian Affairs. If that be so, I submit in all kindness, for I have nothing but kindly feelings on this subject, that it will be unwisdom in the highest degree for us to amend this bill in the least particular so far as the support of Indian schools is concerned, when if we pass it precisely as it is no harm will be done to a single Indian child in the United States.

Mr. PETTIGREW. Mr. President, I think I know what transpired in the Committee on Appropriations, and I must say that I disagree entirely with the Senator from New Hampshire. I do not think any such understanding was reached or agreed to in any particular. It is certain that this bill, as it came from the House of Representatives, will not provide for a very large number of Indian children in my own State. In the first place, we are bound to educate all the Sioux children under the Dawes Act when they become citizens of the United States and citizens of my State and voters in my State, when they take allotments of land and become of age. There are 1,200 Indian children in my State who are in no school at all; there are no schools provided for them, and no schoolhouses built for them, and all the money which has been added by the committee to this bill will not build schoolhouses enough to take care of those 1,200 children who are in no schools at all.

If the Senator from New Hampshire is anxious that no injustice shall be done to any Indian children, and is anxious that money shall be provided to take care of the children who are not provided with schools, he will vote for the provision reported by the committee.

In addition to that, there are 300 children in two State schools in my State who will be unprovided for, and there is no means under this bill of providing for them, because they are in schools upon the reservation. There are no other buildings within miles and miles which could be rented or bought or secured in any way to take care of those children. The only possible way they can be taken care of is for them to continue to be educated in the sectarian schools until we can build schools. The Government will not build schools between now and next September. The Government is always slow in the construction of anything. It will be two years before schools can be built, and in the meantime the proposition is to turn those 300 children out of doors. That is the plain, clear proposition; yet Senators say they do not want to do injustice to any Indian children.

Mr. GALLINGER. I will ask the Senator, if he will permit me, if the Commissioner of Indian Affairs agrees with him in the statement he makes that these children will be turned out of doors?

Mr. PETTIGREW. Yes, sir; he does agree with me. He says that they will all be turned out unless the people now in charge of the schools will care for them and do the work themselves.

Mr. GALLINGER. Did the Senator from South Dakota hear the statement made by the chairman of the Committee on Appropriations the other day?

Mr. PETTIGREW. I heard the statement, and it did not have the force the Senator gives it.

Mr. GALLINGER. Perhaps it did not.

Mr. PETTIGREW. I am fully as cognizant of those facts as the chairman of the committee.

Mr. GALLINGER. The Senator from Iowa certainly gave me to understand that in his opinion no injustice would be done.

Mr. PETTIGREW. Mr. President, I have a letter from the Commissioner of Indian Affairs which completely answers all of this talk and shows what his position is upon this subject. His letter is addressed to Hon. R. J. GAMBLE, of the House of Representatives, and is as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 15, 1896.

SIR: I have the honor to acknowledge receipt of your letter of February 8, relative to certain school matters. In reply I advise you seriatim as follows:

First. Number of Indian children receiving education in sectarian or contract schools under pay from the Government:

Contracts are made for 4,072 pupils, while the average attendance on these schools is shown by reports of contractors to be 4,998.

Second. How much was paid by the Government to such schools for the above purpose for each of the fiscal years of 1895 and 1896, and how much is proposed to be used for such purpose for the fiscal year 1897?

During fiscal year 1895 contracts were made for this purpose aggregating $463,505, and for 1896, $370,796. A like reduction for 1897 would reduce the amount to about $299,000.

Third. How much money, if any, has been used by the Government since the appropriation for the fiscal year 1895 for the Indian Department in the construction or purchase of school buildings for educational use for the Indians?

An approximate estimate shows the cost of this item to be $216,612, to which should be added about $50,000 more for minor repairs, improvements, water systems, and sewerage.

Fourth. If all contracts by the Government with sectarian or other schools were at this time terminated, what appropriation of money by the Government would be necessary to construct or purchase suitable buildings and sites with equipments to adequately and sufficiently supply the service equal to that before the discontinuance of any of the contract schools under the law of 1895?

As stated above, if the contract school system were abolished and the Government forced to care for the 4,000 children now being educated therein, it would require at least twenty boarding-school plants, with capacity for 200 pupils each. To construct and equip these plants would cost not less than $60,000 each, or a total of $1,200,000. This estimate is based upon the actual expenses of this office in constructing such schools.

Fifth. How long would it take the Government to construct and equip the school buildings by purchase or otherwise before the same would be ready for use and occupancy without injury to the cause of education of the Indians?

By putting forth special effort it would take from two to three years.

As to the policy of this Bureau and the Department, see reports transmitted to Congress, Executive Document No. 107, Fifty-third Congress.

Very respectfully,

D. M. BROWNING, *Commissioner.*

The amendment offered by the Senator from Missouri provides for two years longer in which to dispose of the contract school system. For my part I am willing to accept that amendment in the interest of what is just and fair, and in the interest of the Indian children. I think that when the two years are up these people will have disposed of those schools which they are not able to take care of themselves, and it will give the religious denominations an opportunity to raise more money than they are now raising, and to raise it gradually, so that no Indian child will be turned out, his school term broken into, and his education abandoned. It seems to me it is cowardly to strike down the provision for contract schools; that we are running from something in the dark, under cover somewhere, and are afraid to do what is right because of something that is threatened from some quarter, from some battery in ambush.

I do not believe in sectarian schools, but I do believe in doing what is just and fair and right and honest in this connection. The Indian contract school system has grown up in this country, beginning back many years ago. I think it was first established in 1870, and it increased rapidly after 1885. At that time the Commissioner of Indian Affairs, in a circular, especially invited the religious denominations to build schools, and the Catholics took hold of it with great activity, more so than any other denomination. They built very fine school buildings indeed. They built two splendid school buildings in my State. They have done excellent work. Now, all they ask is that they may be allowed an opportunity to raise sufficient money to take care of those schools. It seems to me it is a reasonable, just, and consistent request.

Mr. KYLE. Will my colleague state, just for a moment, the features of the amendment proposed at this time? Is it the same as that offered here a year or two ago, proposing a decrease of the appropriation 20 per cent each year for four years, until it finally ceases altogether?

Mr. COCKRELL. No.

Mr. PETTIGREW. This is more than the regular decrease. We decreased the amount last year 20 per cent. If we decreased it the same amount this year, we would appropriate 60 per cent of the appropriation of 1895, and it would take three years finally to dispose of the whole system; but instead of that the proposition is to appropriate 50 per cent of the appropriation of 1895, taking 1895 as the basis from which to figure, and next year to appropriate 25 per cent, and by 1898 it will be entirely disposed of and we will be out of the contract-school business.

Mr. KYLE. It seems to me that there really can be no objection on the part of the Senate to that proposition.

Mr. PETTIGREW. I do not see how there can be.

Mr. KYLE. It is perfectly fair to the people who established those schools.

Mr. PETTIGREW. I am very glad to hear my colleague say that. It certainly is just and proper. These people, as I have said, have 35 boarding schools and 20 day schools. They have been doing what the Government has neglected to do, for with all the appropriations for Government schools and sectarian schools there are still 1,200 Indian children in my State for whom no provision whatever is made. If we increase the appropriation in the bill by $200,000, every dollar of it should be spent in South Dakota, even if you continue the present contracts to the full amount, in order to reach all those Indian children. When we consider that those Indians were gathered from all the surrounding States and put into Dakota when it was a Territory, and that the burden of their residence among us is upon the people I represent, it is seen that we have a right to demand that Congress shall appropriate money enough to educate them and to fit them for the citizenship which is imposed upon us by act of Congress.

Mr. GALLINGER. Mr. President, the Senator from South Dakota [Mr. PETTIGREW] has read a letter from the Commissioner of Indian Affairs, and makes the claim that it entirely substantiates the position he holds on this question and creates an absolute necessity on our part for adopting the amendment submitted by the Senator from Missouri. The other day in discussing this question I ventured the observation that if the Government went out of the contract-school business, as I think it ought to—I believe it can not get out of it any too soon—the school buildings will still remain, and the Government can rent those buildings and continue to educate the children.

The Senator from South Dakota on that occasion rushed into the breach to say that no matter what action we take here the church schools will continue, and if that be true I should like to ask him what becomes of his argument to-day that the children in those schools will be turned out into the world and will have no means of education whatever?

Mr. PETTIGREW. I will answer the Senator from New Hampshire right now, if he chooses.

Mr. GALLINGER. I shall be pleased to have an answer.

Mr. PETTIGREW. In those two schools there are 300 children. The church will continue them with 50 children in each school. Next year they will take more and the succeeding year more, as they raise more money; and in the meantime 200 of the children will be turned out, their education broken into. Those children will not go back. Other children will come.

Mr. GALLINGER. If the men who are running the schools——

Mr. PETTIGREW. They will run the schools. They will not turn the buildings over to the Government and let the Government rent them for a year or two and, when the Government builds schools by the side of them, be out of business, in the meantime their teachers dispersed.

Mr. GALLINGER. I shall not vote, and I hope the Senate will not vote, for any system that is in open and palpable opposition to the common-school system of the United States.

If the men who are running those schools are as patriotic as the Senator from South Dakota usually is, and if they can not raise money to conduct the schools, they should turn the buildings over to the Government upon a fair rental and let the Government educate the children. If they do run the schools it is evident that they will take care of a portion of the children, so that the number turned out will fall far short of the number stated by the Commissioner of Indian Affairs, whose figures are based on the presumption that all the children in sectarian schools will be deprived of educational advantages.

Mr. President, I have no fears as to the competency and the ability of the Government of the United States speedily to provide school accommodations for any Indian children who may be wronged, if any shall be wronged, by the passage of the pending bill. Think of the proposition of the Commissioner of Indian Affairs that it is going to take the Government of the United States three years to build a little schoolhouse that a Yankee would build in three weeks. It is utter nonsense. I do not believe there is any danger, if we pass the bill, that those children will be turned out into the cold without opportunity for continuing their education for two or three years, waiting the building of a little schoolhouse out on the plains in South Dakota or anywhere else.

The Government will see that some means is provided for taking care of the children, and if a few are turned out, if a few are

deprived of the means of education, they will be no worse off than thousands of children are in the District of Columbia to-day or were one year ago.

I am not throbbing with intense and patriotic feeling particularly for the Indians or the Indian children of the United States. I think they have been as well taken care of as the white men and white children of this country have been in the past; and even if a few of them, as I have just said, shall be deprived for a few months or maybe a year of the advantages that this great Government has so liberally bestowed upon them in the past in the matter of education, I will not allow that consideration to swerve me one iota from my support of the bill as it came from the House of Representatives.

Mr. President, I do not care to prolong the discussion. As I said a moment ago, I have no unkind or bitter feelings on this question, and the insinuation that I understood the Senator from South Dakota to indulge in, that there was some occult influence back of individuals, back of the Senate, inducing any member of this body to advocate the abolition of sectarian education in this country does not apply to me. I believe that we have come to the parting of the ways in regard to this matter. I believe it has been a reproach and a shame to the Government of the United States that not only the spirit, but the letter of the Constitution has been violated in the matter of the appropriation of public funds for sectarian purposes. I feel that I can stand here in the spirit of patriotism and justice to all parties concerned and advocate the proposition laid down in the bill as it comes from the House of Representatives when they declare it the intention of the proposed act that "no money herein appropriated shall be paid for education in sectarian schools."

That, Mr. President, is the American doctrine. That is the doctrine which the people of the United States are going to stand upon in the future, and if the Congress of the United States does not respond to the demand of the people in that respect this year the Congress of the United States will respond to it, in my judgment, before many years come and go.

Mr. GRAY. Let me ask the Senator from New Hampshire a question. I believe it is understood and conceded on all hands that the policy of the United States is to be what he has described, to support nonsectarian schools, and that it is utterly averse to the appropriation of any money for the support of sectarian schools. But while we are making this change, and inasmuch as there have been sectarian schools which have been in a measure supported by public appropriations, doing the great work of education which has been allowed to go by default by the Government of the United States, what is the necessity of running the risk of turning any children out while we are in the process of transition from the old system to the new? What is there so objectionable and so abhorrent about the schools that have been appropriated for in the past that for the sake of doing no wrong to those helpless people we can not endure for a few months longer the existence of those schools as contemplated by the amendment of the Senator from Missouri [Mr. COCKRELL]?

Mr. GALLINGER. In reply to the Senator from Delaware, if he has completed his question——

Mr. GRAY. I have.

Mr. GALLINGER. I will say that there is a very grave doubt in my mind as to whether we are going to do wrong to any Indian children.

Mr. GRAY. But the Senator said he did not care whether we did or not, so far as the amendment is concerned.

Mr. GALLINGER. I did not quite say that. I said if a few Indian children are made to suffer they will be no worse off than many white children.

Mr. GRAY. Why run the risk?

Mr. GALLINGER. We have to run such risks in legislation.

Mr. GRAY. Where there is a worthy object.

Mr. GALLINGER. Yes, sometimes. It is a matter very clear to my mind that this policy should end, and end now. If I had had the opportunity to vote against the appropriation of public money for sectarian purposes when it was first entered upon, I should have so voted. I have cast my vote against it on every occasion I have had since I have been a member of this body, and I shall continue to do so until the system is wholly abandoned.

Mr. President, I happened to be in a Western State not a great many months ago, and I visited an Indian school, a very prosperous and flourishing school, supported by the Government, and almost within a stone's throw of that school was a sectarian school supported in part by appropriations from the public Treasury. I did not like it. I do not like it any better to-day than I did when I looked from the Government school over to the sectarian school and wondered what they were doing there with the money of the people. I believe that this is a great principle, and as such, I contend for it and trust that the Senate will stand by the proposition that comes to us from the other House of Congress.

I presume that a few Indian children may be caused some hardship if we adopt this policy at once. I assume that that may be the case, but I have no reason to believe and neither has the Senator from Delaware [Mr. GRAY], nor the Senator from South Dakota [Mr. PETTIGREW], any reason to believe that any considerable number of Indian children will be deprived of the advantages of education. The Senator from South Dakota talks about ten or twelve hundred Indian children in his own State having no opportunity to be educated. I do not know whether that is true or not. I observe that there are appropriations in this bill for the construction of two additional school buildings in that State which, I presume, in the course of two or three years, more or less, will enable some of those children to have the advantages of education. The Senator must know that the continuance of the 50 per cent appropriation will not do anything toward educating the children in South Dakota who the Senator says are now without the means of education. It will not reach them at all. It simply continues in full blast schools that are clearly, manifestly, undeniably sectarian in their purpose and in which the teachings are sectarian.

Mr. President, I am against it. If we pass the amendment submitted by the Senator from Missouri putting the matter over until 1898, no one can foresee what action will be taken by the next Congress, and I apprehend that if we amend the bill as is proposed the sliding scale will be continued after 1898 and that the year 1900 will find the Senate of the United States still voting the money of the people for sectarian purposes, which it has no right to do under the Constitution of the United States. I stand on the great principle that church and state should be absolutely and eternally divorced.

Mr. GEORGE. Mr. President, this is no new question. I shall vote against the appropriation of money out of the Treasury for sectarian schools as a matter of principle. It is prohibited, I think, by the first amendment to the Constitution of the United States. I will read two lines:

> Congress shall make no law respecting an establishment of religion.

It is not that Congress shall make no law organizing, creating, an establishment of religion, but no law respecting an establishment of religion. Any law which appropriates the money of the people out of the Treasury to any religious denomination to be used for sectarian purposes is a law respecting an establishment of religion, and it is not only in violation of the clause of the Constitution which I have read, but manifestly unjust.

There are many people, millions of people, in the United States who contribute their money to the Treasury of the United States. Those people do not believe that the money which they thus contribute should be applied to the purpose of propagating any religious tenets which they do not entertain. Many of them also believe that the money ought not to be appropriated for propagating religious tenets which they do entertain. One of the largest churches in this country in membership has uniformly from the very beginning refused to accept appropriations of the kind now under discussion. It refused to establish schools or any other eleemosynary institution and receive from the Government any money to help to support them. I think, sir, that it is not only in violation of the Constitution, but a violation of the just rights of conscience of a large number of people of the United States, and for that reason I shall vote against the amendment offered by the Senator from Missouri.

One more remark and then I shall be through. I know that some little inconvenience may occur from ceasing to make such appropriation. One of the great evils of a bad system is the difficulty of escaping from it. But the best way, when the system is wrong, and especially when it is prohibited by the Constitution of the United States, is to quit right off and make no more appropriations.

Mr. KYLE. Mr. President, in listening to the reading of the Constitution by the Senator from Mississippi [Mr. GEORGE] it seemed to me that his quotation is not to the point. It says the Congress of the United States shall make no law respecting an establishment of religion. The mother country had an established religion, and I presume that clause was framed as a guard against the English custom of making a certain religion the established church of the country. There never was a desire on the part of the founders of this Government, nor is there a desire on the part of the Congress of the United States now, to establish any sort of religion or to unite in any sense church and state in the United States. We have got into a bad practice—I have always considered it a bad practice of appropriating—indirectly of course—money for sectarian purposes, and for years we have made these grants not only to the Catholic Church, but to the numerous branches of the Protestant Church.

Mr. GEORGE. Not all of them.

Mr. KYLE. Several branches of the Protestant Church, so as to carry on the missionary work among the Indians of the United States.

As the Senator from Mississippi has just said, this has not been agreeable to the wishes of a very large number of the citizens of the United States. They believe that church and state should be

entirely divorced. A great many Protestant denominations have so thought, and I believe only three or four years ago decided they would accept no gift of this kind from the Government. Since then they have supported their schools by private donations.

Mr. GEORGE. I wish to state to the Senator from South Dakota that the Baptist Church of the United States, on principle, is opposed to all appropriations from the Treasury for sectarian purposes. It has uniformly, from the very beginning, refused to apply its hand to any such fund.

Mr. KYLE. I know that is true, and I think they are to be commended for it. The Presbyterian, Congregational, and other denominations agreed three or four years ago to pursue the same course and now refuse to accept appropriations of this kind.

The Catholic Church, as has been remarked by my colleague [Mr. PETTIGREW], went into the missionary work with a great deal of activity. It established schools upon the frontier at great cost to itself and far beyond its means of supporting them by private donations, relying upon the contract plan of the Government for assistance to educate the Indian children.

Now the proposition is to stop the appropriations. The question is, how shall it be done? The Catholic Church itself is willing to have the appropriations cease, and it merely asks Congress for a little time to change from the contract system to the system of private donation from its people. As is well known to many, that denomination is carrying on missionary work of various kinds to the very limit of their purse. It will take some little time to make the change, and I think it nothing more than fair and just that they should be allowed two or three years to adjust matters, and they are perfectly willing at that time to prosecute their school work without further help from the Government. They were encouraged by Congress to inaugurate the present system, and we should now be generous enough to allow them time to make different arrangements.

Mr. THURSTON. Mr. President, I am a profound believer in the Christian religion. I have the utmost respect for every spire that points to heaven, for every creed that looks to God. I believe I am liberal enough and broad enough to draw no line against any man or against the advancement of any man in this country on account of his religious convictions. But I have for many years held, and have oftentimes in public address and otherwise declared the belief, that the public moneys of the people, collected from the people, should only be expended for public purposes, and when expended, that they should always and under all circumstances be expended by public officers and instrumentalities of the Government; and I can not now, in voting upon the pending amendment, depart from that belief.

I believe it is unconstitutional under our theory of Government to appropriate moneys collected from the people to assist in the support of any institution, whether conducted by a religious organization or otherwise, which is not an institution of the Government, run by the Government, and administered by officers and agents of the Government. It is confessed upon this floor and from both sides of the Chamber that the whole policy of our appropriation of money for the education of the wards of the Government in sectarian schools has been from the beginning wrong. If that is true, it seems to me there is no place where we can compromise with this fundamental wrong against the Constitution of the United States. A carbuncle on the body human must be treated by the knife, and so ought a carbuncle on the body politic.

It is suggested that numerous Indian children, wards of this Government, will be temporarily deprived of educational facilities in case we stand by the bill as it comes to us from the other House.

Sir, I do not believe it, and I stand here to assert my belief that it is all nonsense to say that Indian children will suffer from our standing by the provisions of the bill as it comes from the other House. The distinguished chairman of the Committee on Appropriations has said in this presence that the committee is willing to appropriate whatever money is necessary to provide adequate school accommodation for the children who will be deprived of the advantages of the sectarian schools. The schools of the next school year do not commence before the middle of September. It would be no great hardship to postpone that school year until the 1st of November. It is oftentimes done by communities in this country, and especially in rural communities in this country, and there are whole sections where the winter schooling is limited to three or four months in the year. I grew up in a farming community where we had but three months of school in summer and three months of school in winter, and almost every man upon this floor grew up under similar circumstances. I believe that what was good enough for our fathers and for their children will at least temporarily suffice to properly take care of the Indian wards of this Government.

I stand here to insist that before it becomes absolutely necessary to provide for the next winter's schooling of the Indian children in this country the agencies of this Government, with proper appropriations, can provide all the school facilities that are necessary and no Indian child will unnecessarily suffer because of our standing now by the Constitution of the United States, when we are all determined that from this time on the fundamental policy of the Government shall be recognized, that church and state shall be and remain divorced, and that Government enterprises shall be carried on by Government agencies and through the administration of Government officers.

Mr. GRAY. Mr. President, it seems very strange that at this quiet hour in the history of our country, when the fundamental principles of the American Constitution are accepted all over its breadth and length, when there is no one so far as I know in this body of representative American citizens advocating any policy in contravention of the great American doctrine of separation of church from state, when there is no propaganda anywhere so far as I know which threatens that condition of things which all Americans take pride in maintaining—the absolute divorce of the one from the other, to hear these solemn warnings and invocations uttered in the eloquent language of the Senator from Nebraska to fright us from our propriety in dealing simple justice to a class of helpless children whose education depends upon the wisdom of the American Congress.

If it be so that our Constitution is framed upon such lines that we can not do justice when justice stands plain before our eyes and its dictates are unmistakable, we have not builded better than we knew, but much worse than we intended.

Mr. President, I have not one drop of blood in my veins that is not Protestant. My education was drawn from Puritan sources. But I never learned that this country was laid upon any foundations less broad and sure than those which meant to deal out exact justice and charity to all, and to tolerate the widest difference of religious and political thought.

What is the proposition before us? It is not to unite church and state; it is not to support any policy looking to their union; but simply that in passing from an administration of Indian schools in what was only a short time ago the far West, we should recognize present conditions and seek in establishing absolute nonsectarian schools to do no injustice to the work nor to the character of the devoted men and women who have given of their time and means to do what the Government of the United States was unable or unwilling in the past to do.

It appears now that we are both able and willing, and we are to adopt a system of nonsectarian schools. I say amen to it. It is right; but in doing it I should rather forget, I think, that I am an American citizen imbued with the principles that lay at the foundation of our Government if I could not do justice to those who are also American citizens and who have been laboring in their own way to educate those who, without their efforts, would have been bereft of educational advantages.

So, Mr. President, as I said a moment ago, in a question that I asked the Senator from New Hampshire, it is merely whether we shall take the risk of doing any injustice to these Indian children in passing from this provisional state in which the Government of the United States, whether for good reason or for bad reason, chose to avail itself of these schools established by Christian men and Christian women—whether in passing from that we should not only do them injustice, but in the mode of doing it do them insult and injury.

Mr. President, it was no crime, however impolitic it may be, and I grant that it is, to continue these schools, or to continue aid to them. It was no crime to have these children taught even by the Catholic teachers or Baptist teachers or Methodist teachers. They were all Christians and they were American citizens, men and women both, who were giving their endeavor and making the sacrifice for the great cause of education.

That there is no danger in adopting this provisional arrangement contemplated by the Senator from Missouri, but only doing simple justice and relieving ourselves from the imputation of a narrowness and bigotry that do not belong to the American character, I will ask to have read at the desk a passage from the address of Archbishop Ireland in yesterday's Washington Post, which I think, on account of the patriotic sentiment, and the eloquent expression of it that he has given, ought to be spread upon the record. I will ask the Secretary to read from the heading "Church and state."

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

SPHERES OF CHURCH AND STATE.

The church recognizes as her own sphere faith and morals. She possesses and claims no mission in civil and political matters. The state appropriates to itself civil and political matters, and assumes no authority in the domain of faith and morals. There is no room for conflict between church and state; both move in separate and distinct spheres. If the church encroaches upon the sphere of the state, we should bid her be away. If the state enters into the sanctuary of conscience, the proper empire of the church, the appeal is to God, and the state is ordered to hold off its hands. There is not an American who will not say, "Better obey God than man," and this is all that Catholics ever would be permitted to say by the Catholic Church.

Separation of church and state, as we have it in America—church and state revolving freely in their separate and distinct spheres. Catholics fall behind none of their fellow-citizens in admiring it and demanding its continuance. The Catholic Church wishes no aid from the state in the preaching of her gospel. She rests her cause on its truth and beauty. But liberty from the state she wishes and clamors for as a sacred and inalienable right; liberty in its fullest gifts under the common law of the land; liberty which other associations are entitled to and receive. Yes, we claim liberty in our religious belief and observances, and in the enjoyment of all our rights of citizenship. I am a Catholic, I am a priest and bishop; but I am an American citizen, and I must be debarred from no rights or privileges accorded to other citizens because I am a Catholic or because I carry upon me the insignia of my priesthood. I can hold office, and I can do work, educational and charitable, for the state, although I am a Catholic and a priest, and no one in the name of liberty shall debar me.

Separation of church and state! Most assuredly. The state must not aid in the propagation of the faith of a church, but she must not impede and hamper the church in her work and close her out from the necessary opportunities to do it.

Separation of church and state! Most assuredly again. But let there not be, in the working out of this separation, wild and extreme measures, which would tend to make society godless and destroy in it all moral life and supernatural hopes. Often under cover of separation of church and state infidelity and impiety are stealthily advancing their cause.

My words betray no fear for the future. Americans are a people of sincere religious convictions and of profound common sense, and they well know how to keep church and state separate and yet give liberty its full sway and guard religion and morals.

Mr. GRAY. Mr. President, those utterances would have fallen with propriety, and I have heard many such, perhaps not so eloquently expressed, from the mouths of Protestant clergymen, from men who were high in the priesthood of other than the Roman Catholic Church, expressing just that estimate of what true Americanism is in regard to church and state; and when it falls from the lips of a Roman Catholic bishop it does not cease to be true, and it remains true to-day, and thank God there is room enough in this country for all denominations, and surely for all Christian denominations.

The amendment expressly declares in the following language the purpose of adherence to this American doctrine so eloquently portrayed by the Senator from Nebraska:

And it is hereby declared to be the settled policy—

Says the amendment—

of the Government to make no appropriation whatever for the education of Indian children in any sectarian school just as soon as it is possible for provision to be made for their education otherwise; and the Secretary of the Interior is hereby authorized and directed to make such provision at the earliest practicable day, not later than July 1, 1898.

What more do you want than that? Does not that fill the measure of American common sense and of American Christianity, I should say?

Mr. President, Protestantism is not bigotry and Christianity is not fanaticism. They are both consistent with that broad common sense and that true American spirit that I have tried to describe and which I have heard described not only in the words of Archbishop Ireland, but from the lips of many of our Protestant clergymen.

Mr. GEORGE. Will the Senator from Delaware allow me to ask him a question?

Mr. GRAY. Certainly.

Mr. GEORGE. If it is so entirely proper and constitutional to make provision for sectarian schools, where is the necessity for ceasing to make it two years hence?

Mr. GRAY. I was interrupted by the Senator from West Virginia [Mr. FAULKNER], if the Senator will pardon me, just as he was asking the question.

Mr. GEORGE. The question I propounded was this: If it was so entirely proper and so consonant with American institutions and the American Constitution to make appropriations out of the public Treasury to sustain sectarian schools, where is the propriety of ceasing to perform that operation in two years?

Mr. GRAY. I do not exactly understand the question. Perhaps that is my fault.

Mr. GEORGE. I will explain.

Mr. GRAY. It is my fault.

Mr. GEORGE. I understood the Senator to say that in about two years from now we would get out of this system; that we would have no more of it.

Mr. GRAY. Well.

Mr. GEORGE. Now, why are we getting out of it, if it is a good thing?

Mr. GRAY. Mr. President, no one denies, I do not deny, and you, sir, do not deny that education by a Protestant school, education by a Baptist minister, or education by a Catholic priest is better than no education at all, and that the foundations of freedom in this country were not laid in any wise to forbid the mere touch of a Christian minister as if it were pollution. They have performed, sir, a great part in the past history of this country. They have carried on a great part of the education of American youth, and I have never heard that any lesson that was wanting in patriotism was ever inculcated by a clerical teacher of any denomination. I, sir, have received instruction from clerical teachers. I recollect with gratitude lessons that I have been taught by them of duty not only to my Creator, but to the country and State and society in which I live. They came from the lips of clerical teachers, and notwithstanding that I am not willing that public money should be appropriated to pay such teachers, but neither am I willing that in the public laws of this country we should treat with insult and contumely that portion of our citizenship that has devoted itself to preaching the gospel of Christ, whether it be in a Catholic cathedral or a Methodist or Baptist or Presbyterian church.

No, Mr. President, I do not believe that any such feeling is consonant with American patriotism anywhere. I know the Senator from Nebraska entertains no such feelings; he has disclaimed them on the floor, and we all knew that he did not before he made his disclaimer. But all I want to say is that the great principle of separation of church and state does not forbid us to do simple justice in passing from this provisional arrangement—simple justice to both teachers and children.

Mr. THURSTON. Mr. President, I can not consent that my silence should even impliedly admit that I disagree with any of the general statements or propositions of the Senator from Delaware. I am at a loss to understand how it was possible that anything I said upon this floor aroused him to such a pitch of defense of one particular religious denomination, for I said no word, I made no suggestion, which could be claimed as pointed to any denomination in the United States. The Senator can go no further than I do in my reverent admiration for the barefoot priest with the cross of Christ upon his breast, who has made pathways into the wilderness and has spread for many generations, aye, for many centuries, the divine doctrine of the lowly Nazarene.

Sir, this is no question, and it can not be changed into a question, of religious intolerance. I do not care what may be the religious faith, the religious creed, the religious association of the man who teaches the Indian children of this country, or who teaches my children, but when he teaches them he must be the employed officer and the employed agent of the Government toward which I contribute my quota of taxation for the support of the education of the children of the country. That is all I ask for; all that I insist upon. I will not raise any barrier of religious intoleration or of bigotry against the selection of any man, I care not what his religious creed may be, or of any woman, to teach the Indian wards of the Government of the United States. I only insist that he shall teach them in a schoolhouse of the United States of America, subject to Government supervision, subject to Government inspection, subject to Government regulation, and that the teacher who stands there and teaches Americanism in the education of the children of the United States shall stand there subject to direction of the Government and subject to removal if he abuses the trust conferred upon him by the United States of America.

I think the Senator from Delaware has been unfortunate in another respect. I had supposed up to the time he arose that the whole question of our consideration was as to whether or not by this action of ours we would deprive the Indian wards of this Government of that immediate and necessary support and education to which their helpless condition entitles them from us. But the Senator from Delaware, it seems to me without warrant, it seems to me without excuse, it seems to me without justification from anything that has been said, stands up here and charges that this proposed action of ours, confirming the action of the House of Representatives, is directed as a reproach against some particular religious institution which has heretofore maintained schools for the education of our Indian wards. I do not so understand it at all. I know of no obligation, expressed or implied, on the part of the United States of America to contribute this year or any year one dollar to assist in the support of any private or sectarian school of the United States. The fact that we have done so in the past is no warrant that we should continue it in the future. There is no guaranty by this Government that because it has done a wrong for one year or a hundred years it will continue the wrong in the future.

I say now, not as a result of any immediate or present conversion, but as a result of many years of deliberate thought, animated by the broadest and most patriotic motives, that having for the first time to elect as to whether I will vote moneys of the United States to the support of institutions not officered and managed by the United States, I have only one course to pursue. It is a patriotic course, it seems to me, and I still insist that it works no wrong to any religious denomination; it works no wrong to any established school, and I still insist that this Government is big enough and has money enough to furnish all the necessary school accommodations that are needed by the wards of the United States.

Mr. GRAY. As I understand it, sir, the only question before the Senate is upon the amendment offered by the Senator from Missouri, which provides merely that the Secretary of the Interior may make contracts with present contract schools, thereby showing that contract schools have been authorized in the past by the

Government or availed of by the Government for Indian educational purposes.

That the Secretary of the Interior may make contracts with present contract schools for the education of Indian pupils during fiscal year 1897, but shall only make such contracts at places where nonsectarian schools can not be provided for such Indian children, and to an amount not exceeding 50 per cent of the amount so used for the fiscal year 1895.

That is the amendment the Senator from Nebraska is opposing. That is the amendment toward which he has directed his eloquent denunciation. That is the practical question before the Senate, whether we can afford to allow such Indian children as can not be provided with nonsectarian schools to use for one year the sectarian schools at which they have already been accustomed to attend; that is all. What prevents our doing it? That is what I ask. Not the principle of nonsectarian schools, for I believe in it as much as the Senator from Nebraska; no principle of division between church and state, because we avow in the amendment that hereafter it is—

The settled policy of the Government to make no appropriation whatever for the education of Indian children in any sectarian school.

The amendment declares our settled policy; but it is a mere question of convenience of administration; it is a mere question whether we shall subject these Indian children, or any portion of them, to the hardship and to the inconvenience and to the cruelty of being turned out without any education, in order that they may not be continued even for a short time in the sectarian schools which they have been accustomed to attend.

Mr. PLATT. May I not ask this question: If there is to be a 50 per cent reduction during the year for which this appropriation bill is adopted, will there not be the same risk of children being thrown out?

Mr. GRAY. I am afraid so. I should not make a 50 per cent reduction; but I supposed in the collision of opinion that there has been a certain concession to this feeling which I can not understand, though of course I am bound to respect it because it is an opinion uttered by men whom I am bound to respect, but I can not understand the feeling, agreeing with them as I do that there must be an absolute division between church and state, that we can not afford, in simple justice, to provide in this temporary way during the transition from a provisional system to a permanent system for the care and custody of these children.

I said nothing about a defense of one denomination or of another. I read from the remarks of Archbishop Ireland, because they express eloquently what I have heard before expressed from clericals of other denominations. We agree with him; the Senator from Nebraska indorses him, and I indorse him. I do not care what body of Christians has been doing or is doing this Christian work, it is the same thing. Let them go on for a year and continue the work they have been doing until the United States is able to take it entirely into their own hands. That is all there is in it; and what is to prevent it?

Mr. TELLER. Mr. President, there seems to be no division of sentiment here as to the propriety of the Government of the United States taking charge of Indian education directly. The only question is, it seems now, whether it can be done properly to-day—that is, whether we can discard the old system of contract schools and the Government can furnish the necessary appliances for the education of the Indian children or whether we must by degrees reach that point.

Mr. President, a majority of the Committee on Appropriations have, for the reasons very clearly and conclusively given by the chairman the other day, believed that it was better to accept the provision of the House bill as it came to us. We brought before the committee the Commissioner of Indian Affairs, who very frankly stated to us, I think, that he could take care of substantially all the Indian children. I do not believe there would be any more trouble in taking care of the Indian children under the provisions of the bill as it came from the other House than under the provisions of the amendment now pending. The Committee on Appropriations have recommended to the Senate very large additions to the usual appropriations for the purpose of meeting this question.

Mr. PLATT. Will the Senator allow me to ask him a question?

Mr. TELLER. Certainly.

Mr. PLATT. Will it not be more difficult in taking care of the Indian children if 50 per cent is withheld the next year and 50 per cent the year after than if this change is made all at once? How is the 50 per cent of the children going to be provided for? Those are not provided for by the Government.

Mr. COCKRELL. It is not 50 per cent of the children; it is 50 per cent of the appropriation.

Mr. PLATT. It is 50 per cent for the education of the children.

Mr. COCKRELL. That will be taken from certain schools, and other schools will be allowed their whole number, as has always been done.

Mr. TELLER. But some schools somewhere must be discontinued or else a portion of all the schools must be discontinued. Last year the House of Representatives sent us a provision something similar to the amendment of the Senator from Missouri, which is now pending, providing for a gradual reduction of the contract schools and a cessation of the system. The Commissioner of Indian Affairs stated to the committee that he did not pro rate them in the different schools, but discontinued certain contract schools entirely, and in that way he brought himself within the provision of the law. That is the way undoubtedly he will do it again. If we say we will cut off 50 per cent of the money we shall cut off 50 per cent of the children. It seems to me that, inasmuch as we are entering upon this system of discontinuing and discarding the contract system, it would be better for us to seize this question to-day and prepare at once for taking care of these children. The Commissioner of Indian Affairs made the impression, at least upon my mind, that that would be substantially done if proper appropriations were made.

Mr. President, there have been some erroneous statements made as to the system of contract schools. It was asserted here by at least one or two Senators that it originated with President Grant. There never was a greater mistake. President Grant had nothing whatever to do with the contract schools, and never made, so far as I can learn, any suggestion about them. That statement arises from the fact that President Grant thought it would be a good thing to allow the peace-loving people of the country, like the Quakers and church people, to select the Indian agents. He had an idea if they selected the Indian agents from the class of people they knew, the universal complaint of robbery, stealing, etc., at Indian agencies would cease. So the whole country was parceled out by the Secretary of the Interior. He said such an agency shall belong to the Methodists, such an agency shall belong to the Presbyterians, such an agency shall belong to the Moravians; and I believe a few agencies were allotted to the Catholics, but not, I think, in proportion to the number of their membership or their zeal in the cause of education.

It was found this did not work well. The church, in their desire to serve some good brother, would recommend people who had not the qualifications and who did not and could not make good Indian agents, and it was found to be a very bad system. I know of instances where designing and bad men even went so far as to join the church in order that they might get Indian agencies. When it became my duty to administer the law in 1882 the first case that came before me was from the State of Colorado, where an Indian agent, appointed on the recommendation of one of the great churches of the country, had been caught substantially in stealing the supplies which the Government provided for the Indians. Having seen for some years the bad effects of this system, I very promptly asked the President to remove the man and appoint a man of whom I had personal knowledge, and I did it without consulting the churches. As may be supposed, that raised something of a storm about my ears; but the church was not the church in which I had been brought up and to which my family belonged, and I rather got along with that fairly.

The next case that came was from the Methodist Church, of which my wife was a member, and of which my family had been members for many years, my father, and my relatives generally. While not a member of that organization myself, it was considered a very unfair thing for me to thus treat the church that I had at least some attachment for, and I received very severe castigation through the press and through the secretaries, and from church people generally, because I had interfered with this valuable system. I had taken the advice of the President of the United States, who had very kindly said to me that if I thought it was not a good system I might tear it up by the roots, and I had determined to tear it up by the roots, and did tear it up by the roots, greatly to the benefit of the public service.

At that time there was very little interest in Indian education. The number of Indians in schools was comparatively few to the number to-day. Up to that time there had not been very many appropriations for Indian schools. About $800,000 of Indian money had been put into the Treasury and made available for Indian schools; and that, under the administration of my predecessor, had been practically paid out.

I came to Congress for appropriations, having some notions of my own, and urged Congress to allow me to take charge of all the schools—there were some few contract schools at that time to take charge of—and give me money enough to enable me to do so. It cost the Government about $150 apiece, from that up to $170, to educate the children in its own schools. The good people who had established sectarian schools, or church schools, or mission schools, or whatever you choose to call them, were able to do this work for less; in some instances for as low as $70, and from that up to $100 and $108—in that neighborhood. The Department was compelled, in order to provide for the Indian children who were demanding access to the schools, to make use of these agencies, and gradually they began to grow in extent.

The Catholic Church had had comparatively few schools. I knew myself that the Catholic Church had been a very powerful agency in the civilization of the Indians. Their order of doing business and their methods are much better calculated to get the

entire control of the wild people than those of the other denominations. They had been successful, and I parceled out to some of them at least the privilege of taking charge of Indian education; and some of the most successful Indian schools in the United States have been the Catholic Indian schools.

I am a little like the Senator from Delaware [Mr. GRAY]. I come of an anti-Catholic race, a race which suffered as much from Catholicism as any race that ever lived on the face of the earth; but I have no prejudice whatever against any organization which attempts to uplift and elevate the human race. I can see virtue in the Catholic schools as well as in the Methodist schools; but, Mr. President, I was, as Secretary of the Interior, opposed, and so declared to the committees, to any sectarian schools whatever, against any contract schools, believing, as was stated here on the floor to-day, that the Government of the United States is rich enough and strong enough to educate its own children without the charity of anybody, and believing also that the American people do not want the Government of the United States to save a few dollars on the education of the Indians of this country. I believed then, as I believe now, that it is the duty of the Government to take charge of the Indian schools, and I believe I can point to several Indian schools of which the Government has taken charge which are vastly better than any contract schools which have ever been conducted by any denomination. I will mention the Carlisle School and the school at Lawrence, Kans. I might mention a dozen others which have been very successful, and even more successful than the most successful of the contract schools, which, I again repeat, have been, I think, in the hands of the Catholic Church and not in the Protestant churches.

Mr. CALL. I will ask the Senator if it will be agreeable to him to continue his remarks in the morning?

Mr. TELLER. I only want to say a word or two more, and I prefer to finish what I have to say now.

I have no complaint to make of the Catholics. They have taken possession of the Indian schools when other churches withdrew; but the whole system, in my judgment, of allowing any religious body to educate these children is wrong. If I believed, as has been stated on the floor, that the adoption of the pending or a similar amendment or an adhesion to the House provision would turn out of the schools or deprive a large portion of the Indian children of the benefits and advantages of the schools, I should not vote for it; but I believe, and have believed for many years, that it is the duty of the Government to take charge of the schools and educate the children. Whether they be white or black or red, according to my idea of public policy, the duty of educating them belongs to the state.

Mr. President, I come from a State which adopted a free-school system before there had been a surveyor's chain put upon an acre of its land; a school law which has been in force ever since, and to which no man has ever contributed one cent, except by way of taxation; a school law which has, I think, brought the people of Colorado into loving communion with the idea that the State is bound to educate its children. To such an extent have we gone in Colorado that not only have we provided that each man shall send his children to the public schools, but, if he is too poor to clothe them, the State intends that its citizens shall have the opportunities and benefits of an education no matter what may be their condition in life, and the State puts the clothes upon their backs as it furnishes them the books; and no rate bill has ever gone to a citizen of my State for the education of his children or the education of any children, white, black, or red. Believing, as I do thoroughly, that it is the State's duty to educate, I am opposed to anybody except the State putting out their hand to educate the children.

For that reason I have been willing to adhere to the other provision, believing that there will be no suffering caused by it, that there will be no deprivation of educational facilities with the liberal appropriations which the Committee on Appropriations have recommended to the Senate over and above those provided by the House of Representatives if the Senate shall adopt those provisions.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri [Mr. COCKRELL].

Mr. PETTIGREW. I do not ask for a vote on the pending amendment to-night, as there probably is not a quorum present; but I should like unanimous consent that the vote may be taken on this amendment to-morrow, say, at 2 o'clock.

Mr. CALL. Oh, no; you can not do that.

Mr. COCKRELL. I do not think that is necessary.

The PRESIDING OFFICER. Objection is made.

Mr. PETTIGREW. Can we not agree upon an hour perhaps later than 1 o'clock? It seems to me we ought to dispose of this matter, say, at 2 o'clock to-morrow, and agree that the bill be taken up immediately after the routine morning business.

Mr. GORMAN. I suggest that we agree to finish the bill to-morrow before we adjourn.

Mr. CULLOM. The entire bill?

Mr. TELLER. I do not believe we can do that.

Mr. PETTIGREW. Let us dispose of the pending amendment by 2 o'clock, agreeing to take up the bill immediately after the routine morning business.

Mr. COCKRELL. I suggest that we go on in an orderly way. We shall then consume a great deal less time than will be occupied in trying to secure agreements, and I do not think there will be much more discussion on the pending amendment. I am certain that no one will speak upon it merely for the purpose of delay.

Mr. PETTIGREW. We may be able to dispose of it earlier than 2 o'clock to-morrow.

Mr. COCKRELL. With the Senate in the condition it now is, I can not consent to a unanimous-consent agreement.

The PRESIDING OFFICER. Objection is made.

Mr. TELLER. I offer an amendment to the pending bill, to come in at the foot of page 79. It is an amendment which is desired by the Department, and I ask that it may be printed.

The PRESIDING OFFICER. The amendment will be received and ordered to be printed.

CONDEMNED CANNON FOR GRANT PARK.

Mr. HAWLEY. I beg leave to ask unanimous consent for the consideration of a bill which some of my friends in the Senate are exceedingly anxious to dispose of now, and which is needed before the 27th instant. The bill is now lying upon the table, and I ask unanimous consent that it may be taken from the table and considered at this time. It is House bill 8313.

The PRESIDING OFFICER laid before the Senate the bill (H. R. 8313) authorizing the transfer of a cannon from the Rock Island Arsenal, Rock Island, Ill., to Grant Park, in Galena, Ill.; which was read twice by its title.

Mr. HAWLEY. I ask unanimous consent for the present consideration of the bill.

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

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

Mr. HAWLEY. The Military Committee wishes to move an amendment, which is indicated by brackets on the face of the bill.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to amend the bill, after the word "infantry," in line 16, by striking out "and bearing an inscription, 'Presented to the Sovereign State of South Carolina in commemoration of the 20th day of December, 1860, by citizens abroad'"; so as to make the bill read:

Be it enacted, etc., That the Secretary of War be authorized and directed to cause to be transferred from the Rock Island Arsenal, Rock Island, Ill., to Grant Park, in Galena, Ill., a Confederate cannon captured by the Forty-fifth Illinois Infantry: *Provided*, That the transfer shall be made without expense to the Government.

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, April 22, 1896, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April 21, 1896.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN.

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

BANKRUPTCY BILL.

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that the arrangement which was made for the consideration of the bankruptcy bill on Wednesday, Thursday, and Friday morning of this week be changed to Tuesday, Wednesday, and Thursday morning of next week. I understand there are other matters which will be considered this week, so that we can not get that bill up.

Mr. BAILEY. Then am I to understand that the consideration of the bill is to be had on Tuesday and Wednesday and the vote on Thursday?

Mr. HENDERSON. The vote is to be taken immediately after the reading of the Journal on Thursday. It is just the same arrangement as was made for this week, except it is for next week.

Mr. BAILEY. Mr. Speaker, I have no objection to that; but I would suggest to the gentleman from Iowa, in view of the fact that a good number of gentlemen have expressed to me a desire to speak upon the subject, that instead of taking the vote immediately after the reading of the Journal it be taken later on Thursday.

Mr. HENDERSON. That can be arranged afterwards. I think we had better allow the order to be transferred one week, and that can be arranged later.

Mr. BAILEY. I will say to the gentleman after we make an arrangement by unanimous consent it will then be in the power of one gentleman to prevent an extension of the time.

Mr. HENDERSON. I will amend my request so that it be that the vote be taken on Thursday. We can arrange then at what hour it shall be taken.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. HEPBURN. I object to the consideration of any bill of this character.

CONDEMNED CANNON.

Mr. HARDY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 7671) authorizing and directing the Secretary of the Navy to donate one condemned cannon and condemned cannon balls to U. S. Grant Post, No. 72, Grand Army of the Republic, of Washington, Ind., Department of Indiana.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized and directed to donate one condemned cannon and condemned cannon balls for two pyramids to U. S. Grant Post, No. 72, Grand Army of the Republic, of Washington, Ind., Department of Indiana.

The amendment recommended by the committee was read, as follows:

In line 7, after the word "Indiana," insert the following:
"*Provided*, That in the judgment of the Secretary of the Navy such articles can be spared without detriment to the public interests: *And provided further*, That the United States shall not be subjected to any expense on account of such donation."

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

The amendment recommended by the committee was agreed to.

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

On motion of Mr. HARDY, a motion to reconsider the vote by which the bill was passed was laid on the table.

TRANSFER OF CANNON TO GRANT PARK, GALENA, ILL.

Mr. HULL. Mr. Speaker, I desire to submit a report, and ask for its immediate consideration.

The Clerk read as follows:

The Committee on Military Affairs, to whom was referred the bill (H. R. 8313) authorizing the transfer of a cannon from the Rock Island Arsenal, Rock Island, Ill., to Grant Park, in Galena, Ill., having had the same under consideration, report it favorably with an amendment, as follows:
"Providing that the transfer shall be made without expense to the Government."

The bill was read, as follows:

A bill (H. R. 8313) authorizing the transfer of a cannon from the Rock Island Arsenal, Rock Island, Ill., to Grant Park, in Galena, Ill.

Be it enacted, etc., That the Secretary of War be authorized and directed to cause to be transferred from the Rock Island Arsenal, Rock Island, Ill., to Grant Park, in Galena, Ill., a Confederate cannon captured by the Forty-fifth Illinois Infantry, and bearing an inscription, "Presented to the sovereign State of South Carolina in commemoration of the 20th day of December, 1860, by citizens abroad."

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

The amendment recommended by the committee was agreed to.

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

On motion of Mr. HITT, a motion to reconsider the vote by which the bill was passed was laid on the table.

RAILROAD BRIDGE AT LITTLE ROCK, ARK.

Mr. TERRY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 1353) to revive and reenact the act entitled "An act to authorize the building of a railroad bridge at Little Rock, Ark.," approved March 2, 1891.

The bill was read, as follows:

Be it enacted, etc., That the act approved March 2, 1891, granting the Little Rock Bridge and Terminal Railway Company authority to construct and maintain a bridge and approaches thereto over the Arkansas River at a point on said river at or near the city of Little Rock, in the State of Arkansas, which act has expired by limitation, be, and is hereby, revived and reenacted.

SEC. 2. That section 7 of the said act be amended so as to read as follows:
"SEC. 7. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from July 1, 1896; and all the benefits of this act shall inure and belong to the Little Rock Bridge and Terminal Railway Company, a corporation existing under the laws of Arkansas, its successors or assigns: *Provided*, That the navigation of the Arkansas River shall not be obstructed by false work during the construction of said bridge."

Mr. TERRY. Mr. Speaker, the bill has been reported by the Committee on Interstate and Foreign Commerce.

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

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

On motion of Mr. TERRY, a motion to reconsider the vote by which the bill was passed was laid on the table.

A. T. HENSLEY.

Mr. NOONAN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 7200) for the relief of A. T. Hensley.

The bill was read, as follows:

Be it enacted, etc., That there be, and is hereby, appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of $432, to be paid by the Secretary of the Treasury to A. T. Hensley, in full compensation for dressed flooring and rough boards furnished to the United States in August, 1865.

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

Mr. DINGLEY. Mr. Speaker, I hope the gentleman from Texas will give a brief statement concerning the bill.

Mr. NOONAN. The statement is that these parties furnished the lumber——

The SPEAKER. The House will be in order. These bills ought to receive the attention of the House.

Mr. NOONAN. Mr. Speaker, this bill for lumber was incurred for the use of the Army of the United States years ago. This gentleman was keeping a lumber yard at Lavaca, Tex., and the lumber was furnished to an Indiana regiment at that time. It has been pending since, and for one reason or another it has not been paid. It has now been favorably reported by the committee. It is a small amount of money that is due, $400.

Mr. LOUD. The report is very short. I think it will be well to have the report read.

Mr. NOONAN. The report can be read.

The report (by Mr. COOPER of Texas) was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 7200) for the relief of A. T. Hensley, submit the following report:

The claim of A. T. Hensley, late of Lavaca, Tex., against the United States for $432 is for a house sold to the United States, and was by order of Col. E. D. Swain, commanding post, furnished to Lieutenant Zollinger, acting assistant quartermaster, the lumber to be used for building bunks for the soldiers of the Fifty-seventh Indiana Veteran Volunteer Infantry to keep the men out of the mud and water. A committee composed of J. S. McGraw, lieutenant-colonel Fifty-seventh Indiana; J. E. Loyal, captain of Company G of Twenty-eighth Kentucky Veteran Volunteer Infantry, and R. J. Clow, a citizen of Lavaca, after examination of witnesses, approved the claim for $432 on November 18, 1865.

This claim was approved by J. Rowan Boone, lieutenant-colonel of Twenty-eighth Kentucky Veteran Volunteer Infantry, commanding post of Lavaca, and sent by him to Joseph Conrad, brevet brigadier-general, commanding at Victoria, Tex., and by him sent to D. S. Stanley, major-general, at San Antonio, who returned the claim with his approval November 28, 1865.

This claim was presented to the Quartermaster-General United States Army for payment by Attorney G. W. Paschal, and he was told that the fund from which this claim should have been paid was exhausted. It has been presented several times since 1873, and was not paid, as it required an appropriation to be made for its payment.

Your committee, in view of the foregoing statement of facts, recommend the passage of the bill with the following amendment:

In line 6, after "Hensley," insert "late of Lavaca, Tex."

The loyalty of Mr. Hensley is established by the testimony of army officers stationed at that time in Texas.

Mr. NOONAN. I trust the gentleman will not object to the consideration of the bill. The report, I think, sets out all the facts and shows that the party is clearly entitled to the amount that he claims.

Mr. DINGLEY. One suggestion. Why was not this paid in the regular order? It seems to have been approved by the officer in command—by the quartermaster.

Mr. COOPER of Texas. There was no appropriation.

Mr. DINGLEY. Is there any question of the loyalty of the claimant?

Mr. COOPER of Texas. None at all.

Mr. DINGLEY. It seems on the face of it that this was an account that might have been presented to the Quartermaster-General.

Mr. COOPER of Texas. It was presented and allowed, but there were no funds to pay it.

Mr. DINGLEY. That is all right, then.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendment recommended by the committee was agreed to.

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

On motion of Mr. NOONAN, a motion to reconsider the vote by which the bill was passed was laid on the table.

ENROLLED JOINT RESOLUTIONS AND BILLS SIGNED.

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

A bill (H. R. 365) to fix the date of the discharge of Thomas Johnson;

A bill (H. R. 2224) granting an increase of pension to Lewis C. Schilling;

A bill (S. 744) providing for a naval training station on the

island of Yerba Buena (or Goat Island), in the harbor of San Francisco, Cal., and for other purposes;

A bill (S. 69) to authorize the Secretary of the Interior to settle the claims of the legal representatives of S. W. Marston, late United States Indian agent at Union Agency, Ind. T., for services and expenses;

Joint resolution (H. Res. 85) relative to the medal of honor authorized by the acts of July 12, 1862, and March 3, 1863;

Joint resolution (H. Res. 160) to appoint four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers; and

Joint resolution (H. Res. 163) to amend the act approved August 1, 1894, making appropriations for fortifications and other works of defense, etc.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, the bill (S. 2848) to amend section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895," approved August 18, 1894, was referred to the Committee on Irrigation of Arid Lands.

CONDEMNED CANNON.

Mr. SHAFROTH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 7100) to donate 8 condemned cannon and 100 cannon shot to the Grand Army of the Republic Cemetery Association of Colorado.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized and directed to deliver to the Grand Army of the Republic Cemetery Association of the State of Colorado, for ornamental uses in its burial ground, 4 mounted condemned cannon and 4 unmounted condemned cannon and 100 24-pound or 32-pound round cannon shot: *Provided*, That the same can be spared without detriment to the service and that no expense is thereby incurred by the Government.

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

There was no objection.

Mr. CANNON. Mr. Speaker, I desire just a minute for discussion upon this bill. I am in favor of the passage of the bill, but I want to make a suggestion to the House. Information comes to me, which I have not verified, that there are plenty of condemned cannon at the various navy-yards, most of them, perhaps, at Mare Island, to meet the demand for monumental purposes generally throughout the country. Gentlemen understand that the ordnance which we have had heretofore is practically of no account except as old iron, and that it would be an expense to the Government even to get rid of it. Now, most of us have Grand Army posts that are pressing us to secure for them condemned ordnance for monumental purposes, and gentlemen are urgent here every morning to get unanimous consent for bills of that character. I know I would be glad to get unanimous consent for one or two such bills.

Now, my suggestion is that, by unanimous consent, a resolution be referred to the Committee on Naval Affairs and one to the Committee on Military Affairs, which will practically exhaust this whole subject, give us some idea of the supply of this condemned ordnance that is on hand, and make some apportionment of it in an omnibus bill, thus disposing of the whole matter and getting it off our minds and off our hands; and if the Speaker will recognize me for the purpose, I will, later on, offer a resolution for reference to those committees, directing them respectively to make inquiry and report touching this subject.

Mr. LACEY. Mr. Speaker, I am informed by the gentleman from California, Mr. HILBORN, that there is a very large supply of cannon at the Mare Island Navy-Yard that are not even worth breaking up; that is, the Government can not afford to ship them to the points where it would be necessary to send them in order to break them up. The cost of shipping those cannon to points in the East would, perhaps, be more than a good many Grand Army posts would be willing to bear, but the cannon are there practically useless and more than sufficient in quantity to fill every requirement of the bills that have been heretofore reported.

Mr. RICHARDSON. Mr. Speaker, has unanimous consent been given for the consideration of this bill?

The SPEAKER. It has.

Mr. RICHARDSON. I would like to have the bill again reported.

The bill was again read as above.

Mr. RICHARDSON. My object in asking to have the bill read again was to find out whether it contained the provision that the Government should be put to no expense in connection with the matter.

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

On motion of Mr. SHAFROTH, a motion to reconsider the vote by which the bill was passed was laid on the table.

NORTHERN PACIFIC INDEMNITY LANDS.

Mr. TOWNE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 4974) for the relief of settlers on the Northern Pacific Railroad indemnity lands.

The bill was read, as follows:

Be it enacted, etc., That those persons who, after the 15th day of August, in the year of our Lord 1887, and before the 1st day of January, in the year 1889, settled upon, improved, and made final proof on lands in the so-called second indemnity belt of the Northern Pacific Railroad Company's grant under the homestead and preemption laws of the United States, or their heirs, may transfer their said entries from said tracts to such other vacant surveyed Government land in compact form and in legal subdivisions, subject to entry under the homestead and preemption laws, as they may select, and receive final certificates and receipts thereof, in lieu of the tracts proved up on in said belt by the respective claimants: *Provided*, That such transfer of entry shall be made and completed within two years from the date of the passage of this act, and be so made in person by the claimant, or, in case of death, by his legal representative, and without the intervention of agent or attorney.

SEC. 2. That all persons professing requisite qualifications under the homestead and preemption laws, who, between said 15th day of August, 1887, and said 1st day of January, 1889, in good faith settled upon, improved, and lived six months upon land in said second indemnity belt, having made filing or entry of the same, and who, for any reason other than voluntary abandonment, failed to make proof thereon, may, within two years after the passage of this act, transfer their claims to any vacant surveyed Government land subject to entry under the homestead laws, and make proof therefor in the same way as proof might have been made for their original entries had the same been perfected; and in making such proof credit shall be given for the amount of their improvements upon their claims in said indemnity belt as if the same had been made upon the claims to which the transfer is made. Payment for such final selections shall be made as under existing laws. The provisions of this act shall be carried into effect under such rules and regulations as may be prescribed by the Secretary of the Interior.

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

Mr. DINGLEY. I reserve the right to object until I can hear an explanation of the bill.

Mr. TOWNE. The report is very brief and I will ask that it be read.

The report (by Mr. WILSON of Idaho) was read, as follows:

The Committee on the Public Lands, to whom was referred House bill 4974, submit the following report:

On May 31, 1870, Congress by joint resolution gave to the Northern Pacific Railroad Company an additional, or second, indemnity limit of 10 miles.

On August 15, 1887, Mr. Lamar, Secretary of the Interior, gave an opinion that the company was not entitled to said additional 10-mile limit, and that the lands embraced therein were open to homestead and preemption entry.

On January 17, 1888, Attorney-General Garland rendered an opinion overruling the Secretary and holding the company to be entitled to the additional indemnity belt, and the Supreme Court (36 Fed. Rep., 282) has sustained that opinion.

But this decision of the Attorney-General was not delivered to the local land office at St. Cloud, Minn., until some time in November, 1888.

Meantime, while the lands were open to entry, and in many cases during the time between the date of the Attorney-General's opinion and its receipt at the St. Cloud land office, hundreds of settlers went upon these lands, made homestead and preemption entries, resided the necessary length of time, made improvements, and either received final receipts or were prevented from doing so by reason of the opinion of the Attorney-General before mentioned.

The object of this bill is to afford relief to both classes of these settlers that were thus injured—those who had made final proof and those who had not. The former are permitted to transfer their entries to other vacant Government land subject to entry, provided that such transfer be made within two years from the passage of this act, and by either the claimant himself or, in case of his death, by his legal representative. Those who failed to make final proof are permitted to transfer their claims to any remaining Government land subject to entry, and prove up on the same as they might have done in the case of the original entry, receiving credit also for the improvements made on the original claim.

The act is to be carried out under regulations prescribed by the Secretary of the Interior.

The committee are unanimously and strongly of opinion that the object of the bill is a worthy one, and that the bill should pass.

Mr. TOWNE. Mr. Speaker, the Commissioner of the General Land Office and the Secretary of the Interior are both favorable to the passage of this bill with an amendment which I have sent to the Clerk's desk, as indicated by the letters which I have here.

Mr. DINGLEY. Will the gentleman please put those letters into the RECORD?

Mr. TOWNE. I will do so.

Mr. MCMILLIN. Will the gentleman kindly have the letters read from the desk, as this is rather an important matter?

Mr. TOWNE. Certainly.

The letters were read, as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 23, 1896.

SIR: I have to acknowledge the receipt, by reference from the Department for report, of a copy of a bill (H. R. 4974) "for the relief of settlers on Northern Pacific Railroad indemnity lands."

The text of the bill is as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That those persons who, after the 15th day of August, in the year of our Lord 1887, and before the 1st day of January, in the year 1889, settled upon, improved, and made final proof of lands in the so-called second indemnity belt of the Northern Pacific Railroad Company's grant under the homestead and preemption laws of the United States, or their heirs, may transfer their said entries from said tracts to such other vacant surveyed Government land in compact form and in legal subdivisions, subject to entry under the homestead and preemption laws, as they may select, and receive final certificates and receipts therefor, in lieu of the tracts proved up on in said belt by the respective claimants: *Provided*, That such

transfer of entry shall be made and completed within two years from the date of the passage of this act, and be so made in person by the claimant, or, in case of death, by his legal representative, and without the intervention of agent or attorney.

"SEC. 2. That all persons professing requisite qualifications under the homestead and preemption laws, who, between the 15th day of August, 1887, and said 1st day of January, 1889, in good faith settled upon, improved, and lived six months upon land in said second indemnity belt, having made filing or entry of the same, and who for any reason other than voluntary abandonment, failed to make proof thereon, may, within two years after the passage of this act, transfer their claim to any vacant surveyed Government land subject to entry under the homestead laws, and make proof therefor in the same way as proof might have been made for their original entries had the same been perfected; and in making such proof credit shall be given for the amount of their improvements upon their claims in said indemnity belt as if the same had been made upon the claims to which the transfer is made. Payment for such final selections shall be made as under existing laws. The provisions of this act shall be carried into effect under such rules and regulations as may be prescribed by the Secretary of the Interior."

The facts in relation to this matter are that when the line of the Northern Pacific Railroad was definitely located through the States of Minnesota and Wisconsin, diagrams were prepared showing the limits of the company's grant and transmitted to the local land offices of the districts containing lands falling within such limits, with instruction for their withdrawal from entry. The limits shown on the diagrams were the 20-mile primary limits, the 30-mile first indemnity limits, and the 40-mile or second indemnity limits.

In 1887 the Secretary of the Interior rendered a decision wherein it was held that there was but one indemnity belt (that between the 20 and 30 mile limits) authorized by law within which the Northern Pacific Company could select lands in lieu of losses within the primary limits.

The company had applied for and selected lands within the second indemnity belt, but following the decision of the Secretary aforesaid and in pursuance of the instructions given the local land officers in relation thereto, numerous persons settled upon and entered, and some made proof and payment for the lands selected or applied for.

It was subsequently determined that the joint resolution of May 31, 1870, did provide for a second indemnity belt. (8 L. D., 13.) Therefore, all settlements on lands within this second indemnity belt after a proper application therefor had been made by the railroad company were illegal, and all entries made of the lands were subject to cancellation, and most, if not all, of them have been canceled.

On October 1, 1890 (26 Stat., 647), Congress passed an act authorizing certain parties who had made entries of these lands between August 15, 1887, and January 1, 1889, to transfer their entries and claims to other vacant surveyed Government lands subject to entry under the homestead and preemption laws, but provided that the transfer should be made within one year from its passage.

The proposed legislation is practically an extension of the time allowed by the act of October 1, 1890, for the transfer of said entries and claims for two years from its date, should it become a law.

As the passage of the bill could not interfere with the rights of or in any manner injure other persons, and might afford relief to meritorious entrymen who failed to avail themselves of the privileges conferred by the act of 1890, I see no objection to its becoming a law.

The copy of the bill and the letter of the chairman of the Committee on Public Lands, House of Representatives, are herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The honorable SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, March 28, 1896.

SIR: I have the honor to hand you herewith a report from the Commissioner of the General Land Office on H. R. 4974, "for the relief of settlers on Northern Pacific Railroad indemnity lands."

In addition to what the Commissioner has said, I desire to call your attention to the fact that between August 15, 1887, and January 1, 1889, the land within the second indemnity belt of the grant to the Northern Pacific Railroad Company was very largely settled upon by persons seeking to acquire homes on the public domain, and unless it can be made to appear that persons who settled upon said lands between the dates mentioned can not complete title to the lands which they are seeking to acquire because of the decision of the Department holding that the joint resolution of May 31, 1870, provided jor a second indemnity belt, I can see no reason for the passage of the act as presented. The bill is very broad in its statements, and in effect authorizes persons who settled upon the territory in question between August 15, 1887, and January 1, 1889, to transfer their entries or claims to any other vacant surveyed lands subject to entry under the homestead laws. It is manifest, I think, that this right should be extended only to those persons whose claims were affected by the decision of the Department of January 1, 1889, and who, because thereof, are not enabled to perfect title to their lands, and I would recommend that the bill be amended so as to comply with this suggestion.

Very respectfully,

JNO. M. REYNOLDS,
Acting Secretary.

Hon. JOHN F. LACEY,
Chairman Committee on Public Lands, House of Representatives.

Mr. TOWNE. Agreeably to the suggestion of the Secretary, an amendment was prepared yesterday at the Department which covers that point, and to which I have no objection.

The amendment was read, as follows:

SEC. 3. No person shall be entitled to the relief herein granted who may have initiated a claim upon any of said second indemnity lands and who can yet complete the same and obtain patent therefor under the general land laws of the United States.

Mr. TOWNE. Mr. Speaker, I desire now to ask that the unanimous consent I have requested be made applicable to Senate bill No. 2221, and that the House bill (H. R. 4974) be substituted therefor, and I will ask the chairman of the Committee on Public Lands to make an explanation in that connection.

The SPEAKER. The gentleman from Minnesota asks that the unanimous consent granted for the consideration of the pending bill be applied to the corresponding Senate bill indicated by him, and the Clerk will cause the Senate bill to be read.

Mr. MCMILLIN. I should like to inquire whether the bill of the Senate contains the amendment suggested by the Interior Department?

Mr. TOWNE. The Senate bill covers in a general way the same ground as the House bill; but the provisions of the House bill are considered by the settlers concerned much preferable to those of the Senate bill and are so regarded by the committee. It is now desired as a matter of parliamentary procedure to strike out all after the enacting clause of the Senate bill and substitute the House bill, in order to facilitate the passage of the measure through the two Houses.

Mr. MCMILLIN. Then, as I understand, it is proposed to incorporate the amendment which has been suggested by the Interior Department?

Mr. LACEY. That amendment is not in the Senate bill as it stands.

Mr. DINGLEY. As I understand the request of the gentleman from Minnesota [Mr. TOWNE], it is that the Senate bill be taken up and the provisions of the House bill as amended by the committee be substituted for those of the Senate bill, for the sake of the parliamentary position which the bill will thereby gain.

Mr. TOWNE. That is it precisely.

Senate bill No. 2221, for the relief of settlers on the Northern Pacific Railroad indemnity lands, was read.

The SPEAKER. Is there objection to the present consideration of this bill? The Chair hears none. The gentleman from Minnesota moves to strike out all after the enacting clause and insert the provisions of the House bill with the third section as reported to the House. Is there objection? The Chair hears none.

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

On motion of Mr. TOWNE, a motion to reconsider the last vote was laid on the table.

ELECTION CONTEST—RINAKER VS. DOWNING.

Mr. COOKE of Illinois. I desire to submit a report of a majority of the Committee on Elections No. 1, in the case of Rinaker *vs.* Downing, from the Sixteenth Congressional district of Illinois. I am also directed to ask that the minority of the committee be allowed to file their views in this case on or before Monday next.

The SPEAKER. The report of the committee in this case will be printed. The gentleman from Illinois asks that the minority of the committee have leave to file their views on this case not later than Monday next. Is there objection? The Chair hears none.

The resolutions appended to the report of the committee are as follows:

Resolved, That Finis E. Downing was not elected a member of the House of Representatives of the Fifty-fourth Congress from the Sixteenth Congressional district of Illinois, and is not entitled to the seat.

Resolved, That John I. Rinaker was elected a Representative to the Fifty-fourth Congress from the Sixteenth Congressional district of Illinois, and that he is entitled to the seat.

ELECTION CONTEST—GOODWYN VS. COBB.

Mr. DANIELS. I desire to call up the contested-election case of Goodwyn *vs.* Cobb, from the Fifth Congressional district of Alabama.

The SPEAKER. The resolutions reported by the committee will be read.

The Clerk read as follows:

Resolved, That James E. Cobb was not elected a member of the Fifty-fourth Congress as a Representative of the Fifth Congressional district of the State of Alabama, at the election held in said district on the 6th day of November, 1894, and is not entitled to the seat in the Fifty-fourth Congress as such Representative.

Resolved, That Albert T. Goodwyn was elected a member of the Fifty-fourth Congress as the Representative of the Fifth Congressional district of the State of Alabama, at the election held in said district on the 6th day of November, 1894, and is entitled to the seat in the Fifty-fourth Congress as such Representative.

Mr. DANIELS. Mr. Speaker, it has been agreed with the minority of the committee that an hour and a half may be occupied by them in addressing the House, and the same time by the majority of the committee, and that the time on the part of the minority be controlled by the gentleman from Georgia [Mr. BARTLETT] and the time on the part of the majority by myself.

The SPEAKER. As the Chair understands, the proposition is that an hour and a half be allowed each side for the discussion of this case——

Mr. DANIELS. Yes, sir.

The SPEAKER. And that the case then be voted on.

Mr. DANIELS. The time on the part of the minority to be controlled by the gentleman from Georgia [Mr. BARTLETT] and on the part of the majority by myself.

The SPEAKER. Is there objection to the arrangement proposed?

Mr. BARTLETT of Georgia. I hope that our side will not be confined to an hour and a half. Originally there was an understanding that we were to have more time. So far as I am concerned, I should be satisfied with the arrangement, but the gentleman from Alabama, Judge Cobb, who will conclude the argument on our side, will probably desire more time than he could have under the arrangement proposed. The original proposition, which I understood was for a time acceptable to the chairman of the committee and members on the other side, was that

three hours be allowed on each side for the discussion. I hope the House will not limit us to an hour and a half.

Mr. DANIELS. When the previous arrangement was made it was understood that the minority of the committee desired to address the House. We were informed afterwards that they did not desire to do so, and then an hour on each side was suggested as a sufficient time. This morning a further conference has taken place and on the part of the minority an hour and a half was requested, and that we have conceded. I object to any further time.

The SPEAKER. Is there objection to the proposition of the gentleman from New York [Mr. DANIELS], that the debate on this case be limited to an hour and a half on each side?

Mr. BARTLETT of Georgia. I object.

The SPEAKER. Objection is made.

Mr. DINGLEY. All that the gentleman from New York [Mr. DANIELS] has to do is to move the previous question at the end of three hours.

Mr. DANIELS. Very well; I give notice that when three hours shall have been occupied I shall move the previous question and ask a vote.

I yield three-quarters of an hour to my colleague, Mr. ROYSE.

Mr. ROYSE. Mr. Speaker, this case is somewhat voluminous, and it will be impossible to cover it fully in detail in the three-quarters of an hour allotted to me for discussion. I have therefore been compelled to condense what I shall say, but hope to be able to convince you that the judgment of the majority of the committee with reference to the question presented is a correct judgment.

Before going into the evidence relating to the various precincts involved in this contest, allow me to make a few remarks at the outset upon one or two technical questions raised by the contestee which bear directly upon the case, and of course if he is correct in them it ends the case and he is entitled to the seat.

He insists that the record of the vote of the precincts, the record put in evidence before us of the registration of voters and poll lists, are not properly before the Committee on Elections and therefore not properly before the House for consideration. He maintains that there is no law in Alabama making these things of record or authorizing them or authenticated transcripts of the same to be introduced in any court or body where a controversy arises. It will be seen, therefore, that if that position is a correct one we have no evidence in the record of the vote of the various precincts in that Congressional district, and hence we can not make any calculations at all with respect to it.

Now, the law of Alabama authorizes the registration of voters. It provides for an original list to be made by the registrar of the precinct, and the registrar puts down on the record the name of each voter as he appears before him in a book provided for that purpose. At the beginning of the list is the oath to be taken by each voter, and at the end is the certificate of the registrar. When the list is completed he returns it to the probate judge of the county. The probate judge of the county then takes the list and from that makes up another list, putting down all of the voters registered in their alphabetical order. The statute, therefore, provides for the making of two original lists, the one by the registrar himself, which is an original list, and then the other, an alphabetical list, made by the probate judge, which is also an original list, and is to be certified to by the probate judge. After the probate judge has made the list in alphabetical order he is required by the law of Alabama to make out a correct copy of the same for each precinct and deliver it to the judge and inspectors of election of the precinct.

Now, it is objected that these lists are not required by the law of Alabama and are not properly before us. This matter has been discussed at considerable length in the report made by the majority of the committee, and it is unnecessary for me to enlarge upon it. The statute of the State of Alabama expressly provides that these lists (and I may add here that after the election is over and the votes counted, and the certificates of the returns of the election are made out, the poll lists and the registration lists are all returned to the probate judge), and then it provides that these shall be kept in his office; that the ballots, the poll list, and the registration list of the entire county or State shall be open to public inspection by any voter who desires to inspect them.

Now, it is true that in no express language is it provided that they are public records. It is true that there is no express direction to the judge of probate that he shall make out or certify copies of them which shall be competent evidence in a judicial tribunal. But I apprehend that there is no lawyer present who will contend seriously that it is necessary there should be an express declaration of this kind. The fact that they are made public records, the fact that they are required to be kept in the probate judge's office, the fact that they are kept there for public inspection, makes them public records; and evidently they are public records for some purpose. They are not public records merely to be inspected now and then, but evidently they are to be preserved for the very purpose that they might be used whenever a controversy arises in respect to the vote of that particular precinct; and the law under which we are operating—the law of the United States—authorizes a notary public who takes the deposition in the particular matter to subpœna the custodian of any record to be exhibited, to receive certified copies of any public record; and if it does not so authorize then Congress evidently has been derelict in its duty, and has left the notary public who takes the evidence with but meager power and but limited authority to procure that which is the best evidence in the matter.

But, Mr. Speaker, the best test we can apply to a rule is, What is its result? What shall follow by the adoption of such a rule? And the cases are not exceptional. We need not put an extreme case, a case not likely to happen, but we can go to those cases that have transpired by which, if the rule were adopted, it would be utterly impossible to tell who was elected from a Congressional district. Take, for instance, the very case in hand. In Lowndes County, when the vote was canvassed, the officers made a mistake in adding the columns, giving to Mr. Cobb 240 votes more than the column will add. Now, if you can not go back and take the figures of each precinct itself, it is impossible to correct that mistake, and yet it is apparent. Now, shall we do that? Shall we adopt a rule that will absolutely prevent us from going to the precincts and ascertaining the true vote of a precinct and correcting a mistake of this character made in the returns? I need not go further than this—but there is another case in point. In the Forty-eighth Congress Mr. Craig contested the seat from the Fourth district of Alabama. The contestee was Mr. Shelley. The committee in that case, after investigation, made a unanimous report. The majority of the committee were Democrats. The committee found that something like 8,000 votes had been thrown out by the returning officers of the precincts on the technical ground that the certificates were not properly authenticated as they came from the precincts, and by throwing out nearly 8,000 votes they defeated Mr. Craig, who was honestly elected, and gave the seat to Mr. Shelley, who was not honestly elected.

Now, there was the situation. Suppose we could not go back to those precincts and take up the votes returned and the certificates of the election officers in order to ascertain what was the true vote of those precincts. How would it be possible for us to determine who is honestly elected? But the committee at that time refused to adopt that rule, and adopted the other one, so consonant with justice and right, and went back and counted these returns, took the certificates of the returning officers, and when they came to count the votes over, in that way they seated Mr. Craig, giving him a majority of 3,459, when the returns showed that he was defeated by 2,721.

But this question is really settled now in another case in the Fiftieth Congress, where the contest was between Mr. Duffy against Mr. Davidson. Mr. Duffy put a number of witnesses upon the stand who said they voted for him. He introduced a sufficient number of these witnesses to overcome the majority that was certified in favor of Mr. Davidson, but he did not go to the record. He did not ask to count the ballots, and a majority of the committee in that case refused to consider the evidence that he had brought forward, showing that he was honestly elected, if you could take the statements of the men who said they had voted for him. The committee said: "You must go to the record;" and that evidently is the true rule. The record of these votes is the best evidence, and it will not do to say to one man who comes here by proof outside of the record, "You can not be heard because you have omitted to go to the record," and then when he goes to the record turn around and say, "The record is not admissible." That is the sort of logic we are asked to believe in in this case.

And there is one other technical objection urged by Mr. Cobb, which is that the registration laws of the State of Alabama are unconstitutional. Now, there is some question as to whether they are constitutional in the manner in which they stand, for the constitution of Alabama provides what shall constitute a legal voter, and provides that it shall be necessary that he reside within the county for one year. It provides a certain residence in the precinct, and then again the constitution provides the legislature may alter the residence in the precinct and increase it, but that they shall not increase it beyond three months. Then another provision of the constitution says that the legislature may pass registration laws, but it is silent as to how far these registration laws may go with respect to providing the length of time a man shall reside in a particular precinct.

Now, the registration law provides that the books for registration shall be opened up on the first Monday in May and continue for eighteen days, exclusive of Sundays. It further provides that in cities of 10,000 inhabitants and upward the registration shall extend for thirty days. Then there can be no registration after that time, except as to persons who become of age between the last day of registration and election day. Those may be registered, but no one else. Of course, that puts the period of the registration in the precinct something about five months prior to the election day, when the constitution says the legislature shall not provide a residence longer than three months in the precinct; but

it is to be observed that that registration law could affect no one excepting somebody who came into the precinct after the registration day and prior to the beginning of the three months before election day. But whether it is constitutional or not cuts no figure so far as this case is concerned, because the election was held under the law and everything was done under the law in the same manner as if it were unconstitutional. The registrations were had. The lists were deposited in the office of the probate judge. They were delivered over to the precinct judges and inspectors and returned again in most of the cases. So that that can cut no figure. The value of the registration lists in this case lies simply here. We can tell from the registration list who were legal and honest voters in this precinct, and it makes no difference whether that registration list is constitutional or not. If some man would put down a list of the honest voters and make a poll of the honest voters it would be perfectly competent to go to that poll for the purposes of ascertaining who were legal voters in that precinct, and that is the only figure that the registration lists cut in this case at all.

Now, Mr. Speaker, I propose to go through this case in detail, as far as my time will permit me. I just wish to refer here to two things stated in the minority report which are not borne out by the record. One of those statements is that a notary public named Grace did not certify to the evidence taken before him, and the gentlemen constructing the minority report evidently overlooked a certificate made by this notary public, on page 225 of the record, where there is a complete and legal certificate of all the evidence taken before him. Again, it is said that there was no detailed statement by precincts of the vote of Lowndes County that was put in evidence in chief, but it is said that it came in in rebuttal. Again the gentlemen who drew this report are mistaken, for on page 242 a statement of the vote by precincts is put in the record by the contestant when he is adducing his evidence in chief.

Now, then, Mr. Speaker, this contest was had between Mr. Goodwyn and Mr. Cobb at the election in November, 1894.

Mr. BARTLETT of Georgia. If the gentleman will permit me, the certificate to which he referred on page 242 is the statement as to the county of Lowndes.

Mr. ROYSE. That is what I said—of Lowndes County only.

Mr. Goodwyn was first nominated by the Populist party and afterwards indorsed by the Republican party. Mr. Cobb was the regular Democratic nominee. Mr. Goodwyn, it seems, ran upon a platform the principal planks of which were these: Free coinage of silver, protective tariff, and honest elections. These were the principal planks of his platform. At a meeting held in Macon County during the campaign, where both Mr. Cobb and Mr. Goodwyn were present and engaged in a joint debate, resolutions were offered asking both of these men who were contesting for this seat to join in a request that there should be an honest election in every precinct in that Congressional district, and that Mr. Goodwyn and Mr. Cobb should have friends upon the election board of each precinct. These resolutions were unanimously passed at that meeting. The only man who opposed these resolutions openly—I believe there is some other evidence that some other gentlemen, or friends of Mr. Cobb, had some opposition to them; but the only open opposition came from Mr. Cobb.

Now, that is the proof that is in this record, and uncontradicted. The resolutions, I say, were unanimously adopted by that meeting. It is due to Mr. Cobb, however, to say that in some evidence which came out in rebuttal on a cross-examination of a witness it appears that this meeting was largely composed of the friends of Mr. Goodwyn—nearly all were Populists there at that time, and Mr. Cobb really had no political friends present; but I can not see how that would alter the case. I should think that if Mr. Cobb was in favor of honest elections it was just the time to state it, and thus disarm his opponent, Mr. Goodwyn, from the use of the weapon that he was plying so vigorously against him.

Mr. COBB of Alabama. Does not the record show that he did state in his speech that he was in favor of honest elections?

Mr. ROYSE. Oh, yes; it is due to Mr. Cobb to state that he did say in the meeting that he was in favor of honest elections; but he opposed the resolutions which required these elections to be held honestly.

Before this, however, correspondence had taken place between Mr. Cobb and Mr. Goodwyn, in which it appears that Mr. Goodwyn had asked Mr. Cobb to join with him in a joint debate, and one of the propositions that Mr. Goodwyn had made to Mr. Cobb was this, that they should debate the question as to whether there was to be honest elections in the Fifth Congressional district of the State of Alabama. Well, Mr. Cobb accepted the challenge, but refused to debate that question as to honest elections.

Now, then, Mr. Speaker, in order that I may condense and say all that I desire to say upon this question, I will have to refer to some manuscript where I have condensed my remarks. The district was composed of nine counties. On the face of the returns Cobb is given 10,651 votes and Goodwyn 9,903. On the face of the returns Mr. Cobb has a majority of 748. However, there was a mistake made in adding up the precincts in Lowndes County, and Mr. Cobb was given 240 more votes than he actually received. By deducting this mistake from Mr. Cobb's vote it leaves his majority on the face of the returns 508. The contest relates to the vote returned from three precincts in Macon County, namely, Tuskegee, Cotton Valley, and Honeycut, also to seven precincts in Lowndes County, namely, to wit: Benton, Church Hill, Gordonville, Haynville, Lowndesboro, St. Clair, and White Hall; also to two precincts in Autauga County, namely, Statesville and Days.

The report of the majority of the committee covers all these precincts in detail. In nearly all of them more or less fraud was discovered which led to a deduction of 2,866 votes from the total given to Mr. Cobb on the face of the returns. As he had only 508 majority to begin with, his majority is completely wiped out, and in its stead one of 2,358 is substituted for Mr. Goodwyn by this finding. It is my purpose now to show that the majority of the committee had reached the correct conclusion. But let me assure you that I shall not attempt to run through all these precincts, for that would consume more time than is allotted to me. All that is required is that enough of the returns in favor of Mr. Cobb be cast aside by reason of fraud to elect Mr. Goodwyn. The size of Mr. Goodwyn's majority is not very important when you are once satisfied that he is elected.

Let us make some comparisons between various portions of the district. We have seen that it was composed of 9 counties. The contest is about the returns from 3 of these. No objection is urged against the returns from the other 6.

The returns from these 6 uncontested counties gave Cobb 5,727 votes and Goodwyn 9,339, a majority for Goodwyn of 3,612.

The other 3 counties to which the contest relates by the returns gave Cobb 4,924 and Goodwyn 564. Here in these 3 counties, where a majority of the voters are colored, Cobb comes within 800 of getting as many votes as he received in all of the other 6, where a majority of the voters are white. Here is a circumstance that throws great suspicion on the returns from these 3 counties. Just why in the white counties Cobb should receive only 40 per cent of the white vote and none of the negro vote, and then all the white vote and 90 per cent of the colored vote in the 3 counties where the negro vote largely predominates we would like to have explained. No such explanation is given us in the record.

Let us now take up Macon County and make a comparison of the vote in the contested precincts with that in those where no contest is made. I have already said to you that only 3 precincts in this county are contested. In these by the returns Cobb gets 768 votes and Goodwyn 9 only.

Why Cobb let these 9 votes get away from him is something I can not explain. Lest you might think he was not vigilant, let me say that these 9 votes slipped through his fingers in 1 precinct. Goodwyn had a goose egg to his credit in each one of the other 2 precincts. From whom does Mr. Cobb get this large vote? The census report informs us that in these 3 precincts there are 306 white and 1,307 colored voters. The proof shows that Mr. Goodwyn did not have a representative favorable to him in either of the election boards of these precincts. There are 7 other precincts in this county. On the election board of each of these precincts Mr. Goodwyn had a friend. Now, let us look at the returns from these precincts—Cobb, 267; Goodwyn, 141.

In these precincts there are 655 white voters and 1,447 colored. Here Mr. Cobb fails in getting 388 of the white votes and gets none of the colored. He gets but about one-third of the white vote and none of the colored. In the other 3 precincts he gets all of the white vote and 462 of the colored—about one-third of the entire colored vote of these 3 precincts. Can anyone tell why in 3 precincts he gets all the white votes and 462 negro votes besides, and in the other 7 only gets one-third of the white vote and not a single colored vote? This occurs all in the same county. Now, you are asked to believe that the election in this county was square and honest in the face of this unaccountable condition of things.

I want you now to go with me to Lowndes County. In this county there are 1,078 white voters and 5,422 colored. Yet in this county there is returned for Cobb 3,276 votes and for Goodwyn only 189. Cobb must therefore receive all the white vote and in addition 2,200 negro votes. No explanation is given as to why he should receive such a large negro vote in this county.

But this is not all. There are 20 precincts in this county. In 9 of them Goodwyn had no representative on the election board. In these 9 precincts 2,722 colored votes and 267 white votes were polled. The returns give Cobb 2,777 votes and Goodwyn only 13. In order to make this Cobb must receive all the white votes and 2,410 colored. But now let us look at the other 11 precincts, where Goodwyn had a friend on each board. In these 11 precincts there are 711 white votes and 2,500 colored. Yet the returns show that Cobb gets only 229 votes and Goodwyn 176. Here Cobb gets less than one-third of the white vote—482 out of the 711 white people refuse to vote for him, and he is not able to induce even a single colored person to vote for him. Can anyone explain why in the 9 precincts he should receive all the white vote and 80 per cent of

the colored, and in the other 11 get less than 30 per cent of the white vote and not a single colored vote? You are asked to believe that this unaccountable thing actually happened, and that the election in this whole county was honest and fair. If Mr. Cobb was a man of such wonderful strength and popularity as to be able to carry all the white votes and over 80 per cent of the negro votes in 9 precincts, why is it that in the other 11 he gets no colored votes and but less than 30 per cent of the white votes? No explanation is offered and none can be conceived.

In 8 of the precincts of this county not a single vote is returned for Goodwyn. In 5 of these, where there are only 179 white votes all told, the returns give Cobb 1,843 votes and Goodwyn none.

We have seen that in 11 of the precincts Cobb lacked 482 of receiving all the white votes in these precincts. There are only 1,078 white votes in the county; this would leave him only 596 white votes, so that he really gets but about five-ninths of the white votes of the county. The residue of his majority of 3,276 returned for him in this county must come from the colored vote.

Let us now go to a few of the precincts. I say a few of them, because it would consume too much time to review all of them. Besides, it would not be necessary; for all that you desire is that we go far enough to show that Mr. Cobb was not honestly elected and that Goodwyn was.

Some of the evidence brought forward by contestant tending to impeach the returns from these precincts is from persons present at the polling places and who state that a much smaller number of persons actually voted than are returned by the officers of the election. Other evidence is introduced tending to show that many persons on the poll list did not vote; that the names of dead and absent persons are returned as having voted. We also have some proof that only the white voters were the supporters of Mr. Cobb, while the returns show that he received a large negro vote. Other proof discloses that but a small number of the negroes either registered or voted.

The contestee presents witnesses who contradict this and say that all who are reported as voting did actually cast their ballots; that large crowds were at the polling places, and that the negroes in mass were supporting Mr. Cobb, and in some instances with much enthusiasm. Here is a direct conflict in the evidence. I shall not go into a discussion of this evidence further than to state that the witnesses for the contestant were at the polls for the very purpose of learning the number of voters; that this was their special business, and that their attention was given to nothing else, while, on the other hand, the witnesses for contestee had no such purpose in view. They were not at the polling places for the purpose of ascertaining the number of voters, and their attention was not specifically directed to that subject. It is evident, therefore, that their statements are not so reliable as those made by the witnesses for the contestee.

But we can settle this question without weighing the evidence of the witnesses arrayed on either side of it. There are things apparent on the face of the registration and poll lists which are not contested, and which seem to be incontestible, and by which fraud in these precincts is established beyond doubt. I will first take up the precincts of Macon County. The three contested precincts in this county gave Cobb 769, Goodwyn 9.

If these precincts are thrown out Mr. Goodwyn is elected by a majority of 261.

Let us take them up in order:

TUSKEGEE NO. 1.

This precinct gave Cobb 426, Goodwyn 9. This is made up of 175 white, 224 colored, and 36 color not known.

Two persons, Walker and Grimmet, swear that they were at the polls for the purpose of counting all the negroes who voted and remained there all day. They say that the number was 42. Thirty-six names on the poll list as voting are not found on the registration list. Thirteen names appear on poll list two and thirteen times. Twenty-nine persons whose names are on the list swear they did not vote.

There were two boxes at this precinct. Box No. 1 (Record 119) shows that from No. 167 to No. 194 the voters are put down in alphabetical order. In box No. 2, from Nos. 127 to 151, they voted in alphabetical order, and the strange thing about it is that they took box No. 1 and ran down in alphabetical order to "L," and then they commenced on box No. 2 with "M," and continued in alphabetical order.

Now, let me call attention to Cotton Valley precinct. In this precinct Mr. Cobb gets 237 votes and Mr. Goodwyn none. Thirty-six persons whose names are on the poll list swear that they did not vote. Thirty-seven names on the poll list are not found on the registration list. Mr. Lynch, who was at the polls all day for the purpose of counting the persons who entered the polling place, says there were but 42 persons who voted. The registration list made and furnished by the judge of probate contains 250 names. The registration list made by the precinct registrar contains only 30 names. Yet the judge must get his list from the precinct registrar's list. I want to refer to another thing in reference to this precinct. One hundred and eighty persons are reported to have voted at this precinct in the precise order in which they registered.

Now we will go to Honeycut precinct, Macon County. There the vote is 106 for Cobb and nothing for Goodwyn. Forty persons on the poll list are not registered. Several witnesses well acquainted with the precinct have examined the poll list and are unable to recognize a single name from No. 58 to No. 104, being 46 names. Mr. Covington hunted two days and could not find a single one of these men. William Pierce, a Democrat, and a bailiff in whose hands was placed a subpœna for the persons bearing these names, searched three days through the precinct and could not find one of them. And when Mr. Cobb comes to offer his evidence in contradiction of the evidence of the contestant he can not find a single one of these men in the precinct.

Now we will go to Lowndes County. I take up Benton precinct No. 1. There are returned from this precinct 311 votes, all for Cobb. There are two registration lists, one made by the precinct registrar and the other by the probate judge. The one made by the registrar has 203 names upon it. Remember, it is presumed that the registrar of the precinct registered the men as they came to him without any reference to alphabetical order; yet upon his list there are 33 names registered in alphabetical order. Then the judge of probate, without any authority in the world, adds to this registration list 123 names. No persons bearing these names can be found in the precinct. The contestant produces a number of witnesses who testify that they are well acquainted with the voters of the precinct and do not know a single person bearing any of these 123 names. Again, Mr. Cobb, when he comes to reply to that evidence, can not find one of these men, and does not produce one. Now go to Church Hill precinct No. 2, Lowndes County. Here are 278 votes for Mr. Cobb and 2 for Mr. Goodwyn, making a total of 280 votes. We have in the record two registration lists, one the original made by the registrar and one made by the probate judge. The list prepared by the registrar shows only 32 names——

[Here the hammer fell.]

Mr. DANIELS. I yield to the gentleman five minutes more.

Mr. ROYSE. I will refer to only one more precinct—Hayneville precinct, Lowndes County. Here are 611 votes, and they are all returned for Mr. Cobb. We have the two registration lists, one by the registrar of the precinct and one by the probate judge. The original contains 493 names, 22 being registered in August. In the hands of the probate judge this original list grows to 501, being 8 more than the original list prepared by the precinct registrar. Not satisfied with this, the judge of probate adds 118 more names by way of supplement to the list. No persons bearing these additional names are known to anyone in the precinct. Williams, a Democrat and a constable, who had a subpœna for the men represented by the names, hunted through the precinct diligently and could not find one of them.

Now, a peculiar thing is that these names on the poll list are not voted quite in the order in which they registered; but they are voted in blocks—not "blocks of 5," but in irregular blocks. Let me give you some illustrations: Here is the first block, starting with 24 on the poll list and running down to 47. The persons in that block appear all to have voted at once. Then there is a skip from 47 to 64. Beginning with 64 we have 6 more voting in a block. Then there is another skip; then there is a block of 3 voting. Then, after another skip, a block of 5 is voted. Next there is a block of 8, next a block of 3, next a block of 7, next a block of 14, next a block of 4, next a block of 24, next a block of 7, and finally a block of 5, covering the entire list.

Now, there are other precincts that I might run through, but it is not necessary I should do so. No unbiased man in the world can read this record through without becoming satisfied that there is fraud in each of these precincts. Mr. Cobb is not honestly elected, and no matter how painful it may be to any of us who have been associated here with him on the floor of this House to vote against him in this case, yet we owe a higher duty. It is a duty we owe to ourselves, a duty we owe to the House and to the country at large, to vote according to what we conceive to be the facts, and we owe an overpowering and an overwhelming duty to the people of Alabama. [Applause.]

Mr. BARTLETT of Georgia. Mr. Speaker, I have not the time, nor am I physically able to discuss this case as I had hoped I might discuss it. The gentleman from Indiana [Mr. ROYSE] who has just taken his seat has partially gone through the record, and has stated that Mr. Cobb, the contestee, was not elected, and that they owed a duty to the people of Alabama and to the House to so decide because of frauds that are contained within the pages of the record in the case. In illustrating his argument as to frauds in Alabama elections, he found it appropriate to refer to, as an illustration, an election episode from the State from which he comes, a State which has become notorious by reason of the "blocks-of-five" fraud. It may be that, unexplained, the evidence in this case would suggest and does suggest wrong in the election.

If the testimony of the contestant, upon which the committee alone made up their report, so far as it is contained in the record, is to be accepted as absolute verity, if no attention is to be paid to the evidence with which the contestee met the charges of fraud, if only one side is to be heard and reported to the House, then indeed might we as well abandon all hope of having this case fairly adjudicated.

I had occasion to say, Mr. Speaker, in another case before this House, that no man can point his finger solely to Alabama or that section alone as being the State or section where frauds are committed or where frauds are charged to have been committed in elections. I might detain the House, but I have not the time to do so, and prove by the testimony delivered before Republican courts and Republican executive committees in the great cities of Philadelphia and New York the wrongs committed on the ballot box, wrongs as grievous as those which have ever been charged or alleged in this record or in any other case pending before the House of Representatives. I have the proof at hand here before me; but I have not the time to read it, nor is it necessary, Mr. Speaker, that I should read it. The public journals in the city of New York and elsewhere have denounced the padded poll lists even when Republicans came to select delegates to their State conventions, and where it has been shown also that the 80,000 Republican majority in the city of Philadelphia was made up of returns honeycombed with fraud, and the ballot list contained names of men who never voted and could not be found as residents of that city.

But that does not answer an argument in this case. It could but serve to consume time. Yet, when gentlemen make charges of fraud against the State of Alabama and her election laws, let them look at their own States and at other Republican strongholds throughout the country.

Mr. Speaker, I am not here either to indorse or to sanction for a moment any wrong committed upon the ballot box, no matter where it be committed. I hope the day will come, if such a day can ever come in politics in the United States, in our elections, when the law will be so stringent, when the ballot will be so guarded by the law, by prescribing methods and manner in which the votes shall be cast and counted, that no fraud can possibly be committed upon the purity of the ballot box. But I stand here at the same time to tell this House, at least that small portion of it who seem to pay attention to the argument of this case, that this evidence in this record, which has been taken and reported and printed here for unseating the contestee, would not have been accepted or acted upon in any court that was solely guided by the rules of procedure laid down by the statutes of Congress and prescribed and adjudicated by the courts and the precedents established for a hundred years.

Mr. Speaker, the majority of the Committee on Elections (and I hope nothing I shall say on this occasion with reference to them will be construed in any way otherwise than that I entertain the greatest respect for them all, but I must criticise what they have done and criticise it respectfully and earnestly and not personally in any sense of the word, because for each one of them I entertain the highest consideration and esteem)—but I repeat, Mr. Speaker, that the majority of the Committee on Elections, I think, fell far short of their duty in this case when they presented to the House but one side of it. You may examine their report which they presented to the House, and I say that there is no reference made to any one of the witnesses of the contestee, although he introduced a mass of testimony, which fills a book, to meet at every point charges made and the evidence given for the contestant to sustain them. I wish I had the time and the physical ability to go through with the case, but I have not.

Permit me, before I shall undertake to present the argument which I have laid out for myself, to call your special attention to certain facts in the case. I begin with the suggestion and the statement made by my friend from Indiana [Mr. ROYSE] in reference to certain names appearing on the poll list which witnesses swore not to be residents in the beat where they voted.

Why, Mr. Speaker and gentlemen, I have been through this record; I have taken up the statements and the names of the contestant's witnesses, who swore these men were not in the district and did not vote. I have examined them thoroughly. I have found that the contestee has taken up the majority of the names of the voters testified about, and has proven, not by unreliable "tramp" witnesses who have no character, no place of residence, no credibility or character, but by men in the community who have been honored by positions of trust, men of character, business men, who swear that these men, alleged by contestant's witnesses not to have been in the precinct and not to have voted, were residents of those precincts and voted there on the day of this election. These witnesses for contestee testify that they were present and saw such voters vote, and give reasons and facts that must convince everyone that they are correct. No effort was made to deny it by contestant in rebuttal.

I can not of course undertake to go through with the list which I have here. I took the record in an orderly way, and first put down the names sworn to by the contestant's witnesses as not being present at the polls and not residing in these districts. I then took the evidence of contestee's witnesses, shown to be reputable witnesses, which demonstrates that these men were at the polls and voted—men of that name, men who appeared at the polls and voted at that election. It appears in the evidence here, both of the contestant and contestee, that the colored voters in Alabama—and it is known to be so everywhere—have a number of names that are similar to each other. Upon the large plantations, taking the names of their former owners, or taking such names as they may fancy, to suit their pleasure, there are sometimes as many as five men of the same name living in a district. There were as many as five Naith Forts living in the one precinct. One poll was attacked because Naith Fort was shown not to have voted; but the proof shows that five Naith Forts lived in that district, and that one of them voted.

Why, they even undertook to prove that two men upon the poll list were dead on the day of election. Judge Cobb swore the brother of one of the men who was sworn to be dead. The brother of one of these men swore that the man was present at the election, if I recollect right, and swore further that he did not die until Christmas, because he, the brother, was present at the deathbed and bought the coffin to bury him, and that this was during Christmas after the election.

So that to present to this House a report asking you to unseat the contestee who has served here so long with some of you, and not present to the House the evidence that he offered before and submitted to the committee, properly taken and certified, in order to meet these charges, is, to say the least of it, unfair, unjudicial, and wholly partisan. It certainly is an utter disregard of that fair judicial rule of conduct we were assured would be laid down for their guidance on the 17th of December, when these committees were appointed, and when we were told that an impartial and judicial consideration and determination was to be given to these contested election cases.

I desire to refer to another thing, because Judge Cobb, who will conclude this argument, will doubtless not care to refer to it. The suggestion is made by the distinguished gentleman from Indiana [Mr. ROYSE]—although he at last pulls the sting out of it before he concludes, and although his report endeavors not to charge upon Judge Cobb, the contestee, anything wrong connected with these alleged wrongs—yet it is stated by the gentleman from Indiana [Mr. ROYSE] upon the floor of this House that Judge Cobb is, in a measure, responsible for the frauds committed, because at a meeting at Cross Keys and at a meeting at Bentley he refused to vote for but opposed certain resolutions which provided that Judge Cobb should request the election officers to give Goodwyn representation at all the beats in the county of Macon.

Mr. Speaker, I apprehend there is not a man on this floor, Republican or Democrat, who would not have acted as Judge Cobb did on that occasion. What were the circumstances and the facts, as disclosed by B. F. Walker and Lynch and J. R. Wood, the first two witnesses for the contestant, and the other a witness for the contestee? It appeared they had a little meeting at Cross Keys, at which there were 35 people present. There were 35 people, and not all these 35 people were voters. When Judge Cobb was there to make an address upon terms that had been agreed upon between him and his opponent, three-fourths of that 35, according to Walker's testimony, being opponents to Judge Cobb, a resolution was introduced, which, if sanctioned by Judge Cobb and his friends, would have carried in the preamble as well as the resolution a statement that the Democrats of Macon County, the officers of the county where Judge Cobb lived, the probate judge and the sheriff and clerk, intended to defraud Goodwyn.

The consequence was that only those who were supporters of Mr. Goodwyn voted for it, and nobody thought it worth while to vote against it, and did not vote against it. That is the size and importance of this meeting. Those are the resolutions of the people of Macon County—35 men, two-thirds of whom were Populists. How absurd to give any importance to their action. One word more with reference to the appointment of these inspectors and managers of election. The record discloses that there are no Populists in Macon County, except in one or two beats. In these beats where Judge Cobb received his majority there was not a single white or black Populist, except in Tuskegee. They did not even register or vote.

The gentleman calls the attention of the House to the record, which discloses that at certain precincts Cobb got all the votes and Goodwyn got none. Why was that? The gentleman says that the very fact that a man could not get any votes in some precincts and only 6 in Tuskegee is evidence of fraud. There is no proof in this record, there is no charge made, as I now remember it, in the notice of contest that a vote that was cast for Goodwyn was counted for Cobb. On the contrary, the whole theory and purpose of contestant in the conduct of the election and the campaign

made by him and his followers were to advise his followers to stay away from the polls and not to vote in certain counties, these three that we have under discussion.

But to other counties, two of which, at least, had a large majority of colored people and a majority of Populists, he sent resolutions or requests from the committee that they go to the polls and vote, and they did go and vote. He surrendered in Macon, in Lowndes, and in Autauga, and did not ask them to vote in those counties, but rather begged them not to vote at all. There were no white Populists, with rare exceptions, and I can point to the testimony of colored men in this record who swore that in these three counties the colored men were for Judge Cobb enthusiastically, and that they had no use for a Populist. That is the statement of one of the witnesses offered.

Another thing. Why should it lie in the mouth of any gentleman of the majority of the committee to suggest that Judge Cobb was responsible for any wrong when it is not true, and when their report says he is not? I call attention to the testimony of Walker, one of the witnesses offered by Mr. Goodwyn, illegally as we contend, but still the testimony is here and I might as well call attention to it. It is found on page 356. Walker is a Republican, and was a supporter of Goodwyn. I think he held an office of United States marshal under the Republican Administration of President Harrison. I do not think he even voted for Goodwyn, although he was in favor of him. He had not registered, according to my recollection, but what says he as to these charges that they undertake to make upon this honorable gentleman whom you are asked to turn out of this House?

How can a majority of this committee, in justice to an honorable gentleman on this floor, when they make a statement with these suggestions in it, fail to call attention of the House to that testimony offered by the contestant himself which shatters and breaks down and destroys any such imputation or suggestion as that Judge James E. Cobb had any connection, even the slightest, with wrongs done at that election, or ever had with any wrong done at any election? Take the testimony of B. W. Walker, this Republican, this ex-officer, who held the position of marshal, and I believe was postmaster in one of these cities in the district under Mr. Harrison's Administration; does he make any such insinuation? On the contrary, he swears, on page 355, that at these meetings at Bentleys and Cross Keys he did not mean to suggest or intimate that Judge Cobb in the least palliated, suggested, or aided fraud at any time or under any circumstances. He swears:

> Speaking of you personally, I have never known you directly nor indirectly connected with frauds publicly or otherwise. I have heard you while judge of the court charge juries to investigate fraud at ballot box, when I knew that public and political sentiment of your party in the community did not favor such a charge. I have heard you in public discussion say that you did not favor fraud at the ballot box. I have known you while judge to go so far to secure fairness in public debate in this county, when Independent and Republican meetings were being disturbed by Organized Democrats, to attend these meetings in your official capacity to prevent disturbances, during the canvass of 1886 especially, and that you have been regarded in this county as being at the head of that element in this county representing fairness at elections all the time, and having known you in that way caused me to make the remark to you, at Cross Keys, that you could not afford not to indorse those resolutions for a fair count.

Whatever the result of this contested election may be, whether you shall unseat him and place in his seat to represent the people of the Fifth Congressional district of Alabama a man who, according to his own statement, is neither a Democrat, Populite, nor a Jeffersonian Democrat, but all combined, neither "fish, flesh, fowl, nor good red herring," but anything and everything; whatever you may do, the suggestion or insinuation made on the floor or put in your report, so far as this contestee is concerned, that he ever suggested or indorsed a wrong upon the ballot box is not borne out by the record, but absolutely contradicted by it. I therefore think it is due him that I shall place upon the record the words spoken of him by the man upon whose testimony the committee based their report for the purpose of defeating his election. He has earned a reputation for honesty of purpose and integrity of character in all things, so that his people love and honor him. And he earned it not only from his friends, but from his political enemies, who can not and dare not gainsay it. It ill becomes any member of the majority to make these insinuations against the contestee, when the record does not authorize but disproves them.

Mr. Speaker, I can not, in justice to the case or to myself, undertake to go through all this record. I have stated some of the facts succinctly and briefly. I desire to call attention to one fact, and you will find it as I state it if you will examine this record, and I challenge any man to deny it. I desire to call attention to the injustice, the one-sidedness, and unfairness of this majority report as to the evidence, and this is but a fair sample of the wrong coloring and the lack of information that they convey to the House in this report. What is it? Great stress is laid by the report of the majority on the evidence as to the Tuskegee beat, Judge Cobb's home. Here there were 746 voters registered and only 427 votes polled, a little more than half of the number registered. Two witnesses—Grimmet, chairman of the Republican committee, and another man, named Walker—stood off from the court-house and watched the election; they say that they only saw a certain number of colored men go into the polling place. Grimmet and Walker, mark you, Mr. Speaker and gentlemen of the House, during the whole day sat side by side or stood side by side all the time. They sat in chairs together a part of the time at the same place, and what one saw the other could see, and only could see that much, and what one failed to see the other necessarily failed to see. So they swore.

During that day the sheriff and other men who knew that that election was being conducted fairly found out what these two watchers were doing, and they went to them and said, "We know what you are here for; you can not see where you are now stationed. Come down in front where you can see and we will furnish you ample opportunity to observe all that occurs. Come down and see. Do not shelter yourselves behind the stone walls of the court-house, where you can not see the polling place, but come down in front and examine what is going on and see it." They refused; and they appear in the record as witnesses for the contestant and swear, after refusing to go where they could see thoroughly and examine, that they could see well, and that they observed the men who went in, and only a certain number went in. They are completely and absolutely contradicted by six reputable, worthy gentlemen. Now, it was shown by a diagram, by photographs, and by measurement, that it was as absolutely impossible for them to have seen where they sat as it would be for you to look through that wall and see the White House through it.

Why, Mr. Speaker, they could not even have seen the polling place with the use of the most powerful cathode X rays that have yet been invented; and yet these gentlemen swear, swear positively, that they could see. But what change came over the spirit of their testimony? The court adjourned for dinner while Grimmet's testimony was being taken. He went out. So many people had asked him about it that he began to doubt his own memory, and, an honest man as he apparently is, in order to satisfy his judgment, in order to satisfy his conscience, in order to swear truly, he went out and examined again on the day that his testimony was being taken, took the same position, measured it off, made a thorough investigation and came back before the commissioner and said, "I want to retract my testimony. I was mistaken when I said that I could see the court-house door, and I swear now I could not see it"; yet the judicial turn of mind of the majority of our committee did not permit them to suggest to the House that the very witness upon whose evidence they destroy this precinct and reject it entirely had taken back his testimony, had said that he was mistaken, and that his former testimony was not true.

So I might go through with this record, and if I had the time I could demonstrate that, so far as the testimony is concerned, the overwhelming weight of it sustains the returns made by the election officers. I could show that the contestee met his assailants at every point where he had the opportunity. But why do it? Why consume time when I know that, following the precedents established here by this Congress, the majority report will doubtless be accepted without investigation or inquiry into the merits of the case. I have no complaint to make that it should be. That may be natural; but I challenge any man who wants to ascertain the truth in this case to examine the reports and the evidence contained in the record; I challenge the distinguished chairman of this committee to deny that the record I have quoted is as I have stated it. If it is, why has he and the majority withheld from the House in his report this most important evidence?

Now, Mr. Speaker, I maintain, as this minority report maintains, and I can demonstrate it to any impartial court or judicial tribunal, that the testimony upon which the majority find that the contestee was not elected is not legitimate testimony and ought not to be received. I should like to have time to present authorities, decisions of the Supreme Court of the United States, construing the law prescribing when depositions taken under the act of Congress are to be received and when they are to be excluded. I state it as a rule laid down as early as 2 Cranch, repeated in 149 United States Reports, and especially laid down in 17 Wallace, that in taking depositions wherever a party made a motion to suppress the depositions on account of the testimony being illegal or being improperly taken, no matter whether he was present when it was taken or not, the court will exclude them. Now, let us apply the rule thus prescribed by the statute of the United States relative to contested election cases. Let us apply it to the phases of this case presented by the record.

There is not a word in this record, Mr. Speaker, which shows what the vote of the district was for either side, except what was offered in rebuttal, and the evidence offered in rebuttal shows that Mr. Cobb had a majority of 748. There is not a particle of evidence with reference to failure to find certain named voters,

except Pierce's, which I must leave for Judge Cobb to discuss, except that offered in rebuttal. The material evidence for the contestant, the witnesses Walker and others, whose names I will not call over, were called and sworn in rebuttal, but they testified to facts in chief, or they were sworn in Montgomery County, in the Second district of Alabama, outside of the Fifth Congressional district, before a notary public who was appointed in Elmore County, the county where the contestee lives, and not a county of the Second district.

Now, let us take up this proposition first and the other one last, and I am done. I lay this down as a proposition that can not be disputed, and to deny which would open the door to fraud, would permit any man's seat on this floor being challenged and taken away from him. I call attention to section 107 of the Revised Statutes, which prescribes the time within which testimony shall be taken. It provides that—

The contestant shall take testimony during the first forty days, the returned member during the succeeding forty days, and the contestant may take testimony in rebuttal only—

Mark it, in rebuttal only—

during the remaining ten days.

Now, I state, and I defy contradiction, and the majority of the committee admit it in their report, that this testimony in chief was taken within the time prescribed by the law for taking testimony in rebuttal only. The majority do not deny that. They simply undertake to evade the law by saying that the testimony was not objected to, when the record shows that it was objected to. I repeat that the testimony upon which their report was founded and must rest, because without it there could be no report against the contestee in this case, is testimony offered by the contestant in the last ten days, and that he took testimony in chief during the time when the law provided that he could take testimony "in rebuttal only." It came to this committee damaging testimony, testimony indicating such fraud as to turn the sitting member out of his seat; that testimony was taken and came to this committee at a time when the contestee had no opportunity to reply to it, or to call witnesses in rebuttal, because the law had closed his mouth when that testimony was taken. He made a motion before the committee to suppress it. He made a motion that, if they considered it, they should permit him to reply to it, as he said he could do.

They saw fit to decide against him on that question, and to-day it is proposed to send him out of this House as not having been elected or having been declared elected by fraudulent votes, when the evidence upon which that verdict is based was offered by the contestant in the last ten days of the time for the taking of testimony and when the contestee has never had any opportunity to reply to it. Is that judicial? Is there a court on earth that ever permitted such a proceeding in the trial of any cause before it? I challenge the gentleman on the majority, or any gentleman on this floor, to point out or name a case when this was ever done.

Section 117 of the Revised Statutes declares that—

Depositions of witnesses residing outside of the district and beyond the reach of a subpœna may be taken before any officer authorized by law to take testimony in contested election cases in the district in which the witness to be examined may reside.

There is the plain provision of the statute. Yet a number of these witnesses, the most intelligent witnesses for the contestant, were examined in the county of Montgomery before a notary public, an officer not residing in Montgomery County or in that Congressional district, but residing in the county of Elmore and in the Fifth Congressional district. These witnesses might as well have been sworn before a private person. A notary might as well have been taken from New York to take the testimony of these witnesses. Yet testimony taken in this way is made a part of this record, and it is relied on in the majority report for the purpose of upholding the conclusions reached, and their testimony set out in detail in the report of the majority.

They say that no objection was raised on this ground, except in one instance. Sir, the record shows that objection was made; but apart from that I lay down the broad proposition of law, as declared by the Supreme Court of the United States in cases which I have referred to, and I could furnish a number of them if I had the time, that it was not necessary that objection should be made; that all that was necessary was that when this testimony was presented before the committee a motion should be made to suppress it; and it ought to have been suppressed. To say the least, if the committee chose to consider evidence of this character in violation of the strict terms of the statute, they ought to have permitted the contestee to have obtained and offered evidence in rebuttal. The contestant himself testified for the first in rebuttal, and gave testimony in chief; most of his testimony is taken up in detailing what he gathered from the records of the court and from the statements of other people, and proving facts which had never before been testified to, and which was regarded by the majority as most material evidence and upon which they have acted in making their report.

These are the legal aspects of the case. I have stated in a general way what the contestee did to meet the case as made by the evidence in chief. I have shown that he could not meet the evidence offered in chief and taken in the time allowed only for rebuttal. Yet a majority of the committee sitting as a judicial tribunal to determine the result of this election and to apply a uniform, unvarying rule of law to the case have said, in spite of the imperfections of the evidence, in spite of the violation of the statute and the principles of law, "This is enough." They have raised the "red flag" of fraud and flouted it in the face of this House, and all else must be lost sight of because it is raised. As evidence of fraud they presented here that which the contestee has had no opportunity to reply to.

This may be judicial; this may be right; but if so, Mr. Speaker and gentlemen, we shall have to learn anew the judicial rules for the interpretation of statutes and the admissibility of testimony as laid down by Greenleaf—rules which have grown hoary and sanctified by age. We shall have to unlearn the rules of law as established by English and American courts and as upheld by the greatest court on the face of the earth, occupying a chamber not far from this Hall. That august tribunal will have to learn new lessons from this Republican majority which establishes new principles of law in order to unseat a Democrat and seat a "combine" Populite-Jeffersonian-Democrat-Republican—the Lord only knows what he is! [Applause.]

I desire to yield the balance of my time to the gentleman from Alabama, Mr. Cobb, but before taking my seat I will ask leave to print as part of my remarks the report of the minority of the committee.

The report is as follows:

VIEWS OF THE MINORITY.

We, the undersigned members of Committee on Elections No. 1, not being able to indorse the reasoning and conclusion of the majority of the committee, present these as our views:

The questions of law submitted in this case to the committee, and a determination of which was asked at their hands, are these:

First. "Whether evidence taken before a notary public, acting as commissioner to take testimony, could be considered when the testimony was taken before such notary public in a county of the district other than the county for which he was appointed?" We believe that this could not be done, and that the evidence taken before such notary public in this case should be suppressed and not considered. The reasons given therefor have already been reported to the House in the case of Aldrich *vs.* Robbins, and will not be repeated here.

Second. "Whether evidence taken outside of the Congressional district from which the contest comes could be taken by and before a notary public who does not reside in the county or district where he takes such testimony?"

In this case important testimony was taken in Montgomery County, Ala., in the Second Congressional district of Alabama, before a notary public who resided in a county in the Fifth Congressional district of Alabama. This testimony was that given by B. W. Walker, U. D. Lynch, S. M. Dinkins, D. D. Askew, and J. D. McDuffy, and certain exhibits then made before such notary public. It is clear from the statutes of the United States, as contained in section 117 of the Revised Statutes, that the notary who took this testimony in Montgomery County was utterly without jurisdiction to do so; and as the want of jurisdiction appears upon the face of the papers, according to the universal and accepted rules of law, advantage can be taken of it at any time, and this was done in this case by the contestee in a motion to rule out and suppress this testimony.

Section 117 of the Revised Statutes declares that "depositions of witnesses residing outside of the district and beyond the reach of subpœna may be taken before any officer authorized by law to take testimony in contested election cases in the district in which the witness to be examined may reside." There can be no question that this section expressly provides that the testimony shall be taken before an officer such as is described in section 117 of the Revised Statutes, who must reside in the same district in which the witness to be examined resides. No other officer or person is clothed with authority to take the testimony of a witness who resides outside of the district in which the contest is pending except an officer who resides in the district of the residence of the witness.

The statute of Alabama defining the power and authority of a notary public confines his power and jurisdiction to the county for which such notary is appointed, and the statute of the United States confines the power to take the testimony to an officer who resides in the district of the witness, so that neither the laws of Alabama nor the United States permit or authorize this officer who did take the testimony in Montgomery County to take it, and his actions in taking the testimony are absolutely void and the evidence thus taken wholly illegal. If this testimony is not considered, then the most important evidence which was offered for the contestant should not be considered, and it would be impossible for any fair-minded tribunal to arrive at the conclusion which the majority of the committee have reported.

Third. The contestant began taking testimony in rebuttal April 9, 1895, and with rare exception introduced original testimony, and this evidence thus offered has been considered by the majority of the committee, and upon it the majority have founded their report. But in our judgment this testimony should not have been considered or acted on. The testimony given by the contestant himself, which is related in the report of the majority, and all the exhibits attached to his testimony, beginning on page 334 and ending on page 347 of the record, without which it would be impossible for the majority to reach the conclusion it did, is original testimony taken in rebuttal after the expiration of the forty days in which the contestant was permitted by law to take original testimony, and was taken in the remaining ten days in which the law declares "he should take testimony in rebuttal only." (See section 107 of the Revised Statutes, which declares "the contestant may take testimony in rebuttal only during the remaining ten days of said period.")

This provision of the statutes is but an affirmation of the rule of the common law. No rule of law is more firmly established and universally observed than that evidence in chief can not be used in rebuttal unless, after its introduction by the exercise of the discretion of the court, the opposite party is given the opportunity to meet it by contradictory evidence. No court will permit a plaintiff to introduce a part of his evidence in chief and then when the defendant has closed his evidence to introduce other evidence in chief, under the pretense that it is only in answer to the evidence of the defendant.

In view of this well-recognized principle it surprises us to see in the majority report this declaration:

"Evidence was taken which the contestee urges was not within the scope of a proper rebuttal; but it was mainly to prove that persons did not vote whose names were not on the poll lists. Similar proof had been previously taken, and there can be no reason for supposing that the contestee, Mr. Cobb, was specially prejudiced by the order of this evidence, for it seems to have been beyond his power of contradiction."

How does it seem beyond his power of contradiction? Such a fact could not possibly appear until he was afforded the opportunity to contradict. This opportunity he sought at the hands of the committee, by asking that if they saw proper to consider this rebuttal evidence, he should be allowed an opportunity to meet it by contradictory proof, as he declared his ability and willingness to do. This request was reasonable. The rebuttal evidence, which clearly appears to be evidence in chief, should have been suppressed or the committee should have reported a request to the House that the contestee be granted time to contradict it.

If this rebuttal evidence was mainly to prove, as asserted, that persons did not vote whose names were on the poll list, it is certainly true that this is made by the contestant the vital issue in his case. But it will appear from examination of the record that the rebuttal evidence took a much wider scope. There were examined in rebuttal more than 25 witnesses, whose evidence touched upon every point which it was conceived could possibly affect beneficially the interests of the contestant. Among these witnesses are found Reed Smith, A. J. Wood, C. E. Reese, J. L. Long, B. W. Walker, D. D. Askew, W. A. de Bardelaben, J. M. Williams, A. T. Goodwin, J. A. Reese, W. E. Mealing, and J. V. McDuffy, all of whom are mentioned in the report of the majority as the witnesses on whose evidence reliance is mainly placed to sustain the cause of the contestant. Here, then, we have the case in which the trial court makes up its judgment on rebuttal evidence, entirely cutting off from hearing the party against whom the judgment is rendered, in violation of law and for no reason assigned except the presumption of the court that the evidence could not be rebutted—a presumption directly in conflict with the established law of more than one hundred years.

The contestant failed during his first forty days to prove the vote of the whole district. Without this proof it was impossible, by any amount of other evidence, that he could sustain his contest. He was bound to know this, and the presumption is strong, if not conclusive, that he withheld this necessary proof for the direct purpose of cutting off the contestee from an attack upon it. When the case was first submitted to the committee there was no proof before them, even in the rebuttal evidence, legal in character, proving the vote of the district. This was so apparent that the committee called on the contestant for additional proof on this point. He was permitted to get certain transcripts from the secretary of state of Alabama. On production of those transcripts the fact was made apparent that the vote of one whole county should have been disregarded because of the illegal manner in which it had been transmitted to the secretary of state. Had the vote of this county been excluded, as clearly it should have been, then the contestee's majority would have been increased at least a thousand votes. Being accepted by the committee, what could have been more reasonable than to allow the contestee opportunity to show that behind this return of the county supervisors to the secretary of state, and on which it rests, were votes counted from a number of precincts with no returns before the county board to show that such votes were ever legally cast?

No reason is offered by the majority of the committee for the introduction of this supplemental proof, except that it is a record, when the most cursory view of the statutes of Alabama negative such an idea. It was evidence subject to contradiction, capable of contradiction, as was made clearly to appear before the committee, and no greater injustice can be done, in our opinion, than to seat the contestant on such evidence. But if it was a record, it could not have been legally received by the committee. Mr. McCrary says:

"Record evidence must be put in before the commissioner, and put in the record of evidence. (McCrary, page 307, section 362.)"

The whole of this testimony, in our opinion, should be suppressed and not considered. Not to do so violates, we repeat, the express terms of the statute and rules of law that have not heretofore been questioned. To permit this course of procedure would authorize contestants in election cases to withhold the most vital and important evidence in their possession until the last days permitted for offering evidence in rebuttal, and then cut off the right of the contestee to reply to it, and would not only be in violation of the law and statutes of the United States, but would be approving and upholding wrong and injustice, which no impartial and fair-minded judicial body or legislative body acting in a judicial capacity can afford to permit or sanction.

This testimony contains the only suggestion or statement, and that by means of offering evidence that is clearly secondary and hearsay, that contestee's majority was less than 748. Therefore, without accepting this secondary evidence and evidence offered in rebuttal, the majority of the committee could not arrive at the conclusion that contestee's majority was only 508, instead of 748; and to the admission of this testimony the contestee strenuously objected, and by solemn agreement with contestant, entered in the record, said objection and agreement being found on pages 334, 402, 403, and 404 of the record, and in addition thereto a motion was made to suppress this testimony before the committee. To say that the contestee had not availed himself of every technical rule to resist the introduction and use of this testimony thus illegally put in the record is to make a statement which the record of the case will not sustain.

Besides, in our judgment, if no objection had been taken before the notary public, it was in the power of the contestee, if he so desired, when his case came up to be heard before the committee, to object to all illegal testimony and to move to suppress it, and if for the first time objection had been made before the committee, we are of the opinion that the objections should have been sustained if they were legal objections, and if the testimony objected to was illegal and inadmissible it should be suppressed and rejected. It must be remembered that the notary public who took the testimony has no judicial power to rule out evidence, or to admit evidence, or to pass upon the objection to the legality of testimony. He is simply the officer designated by the statute to summon the witnesses and to administer the oath to them, and to take down the questions propounded and the answers made.

We therefore conclude that all this evidence taken in rebuttal, which is original testimony and was offered for the purpose of sustaining contestant's case, and which should have been offered in chief, is not simply in reply to contestee's evidence, and should be utterly disregarded, especially as the contestee vigorously asserted his ability to meet and overcome it.

Fourth. Another portion of the testimony taken before Mr. T. L. Grace, notary public, which attacks precincts in Lowndes County, viz, Hayneville, Gordonsville, and Benton, and which is important testimony, comes before the committee without any certificate from the notary public. We do not believe this testimony should be accepted or regarded. Section 127 of the Revised Statutes of the United States requires that "the officer who takes the testimony shall certify and carefully seal and immediately forward the same by mail," etc., "to the Clerk of the House of Representatives."

It appears in this record, and it is not denied, that the contestant, during the time when the testimony was being taken in the case, took possession of parts of the testimony and carried it about with him out of the care of the commissioner, and at one time when the testimony that had been taken was called for the commissioner did not have it, but stated that the contestant had it, and that the contestant refused to give it to him on his demand.

We can not fail to call attention to the fact that a majority of the committee wholly neglected and failed to refer or call the attention of the House to the evidence of the contestee taken in the case, although a large mass of testimony was taken by him in reply to every charge made; and the officers of election of every precinct attacked were offered and sworn; and, besides that, numbers of persons were offered who did sustain the fairness and honesty of the election. The witnesses for the contestant were flatly contradicted as to the material facts sworn to by them, in every instance, and while the majority have a right to disbelieve the testimony of contestee's witnesses if they see fit, we think it is the right of this House to know, and it is the duty of the committee to inform the House, of the evidence. The witnesses for the contestee were shown to be worthy and reliable, and in most instances citizens of high standing, character, and probity in the community where they lived, and if their testimony is the truth, then the majority could not arrive at the conclusions they have.

The House is left to infer that only the witnesses named for the contestant were offered, when such is not the truth. In each precinct attacked it is shown by contestee not only that the votes returned were voted and counted as voted, but that large numbers of voters were present at the time at the polling place, and that the colored voters were for Judge Cobb, contestee, were his supporters and his friends, and had no affiliation with or sympathy with the Populist candidate, contestant. Great stress is made in the report of the majority that numbers of voters on the poll list were shown not to reside in the precincts in which they voted, that some were shown to be dead and some absent from the precincts, and that a number of them made affidavit that they did not vote. Taking up the last proposition first, we deny emphatically that there are any affidavits in the record sworn to by the number of persons stated in the report of the majority or any other to that effect. The only reference made thereto is the testimony of D. D. Askew, taken in Montgomery County on the 19th of February, 1895, before a notary public who was a resident of the Fifth Congressional district and not authorized to take the evidence, and was taken after the expiration of the forty days in which the contestant had a right to take the original testimony, and was taken when the contestee was not present, and like evidence of Askew taken by contestant in the last ten days for taking evidence.

On page 308 of the record will be found the statement of D. D. Askew, in which he says that "certain ex parte affidavits were made before him in Macon County by parties therein named that they did not vote," and he gives the names. The affidavits are not in the record, nor does it appear that they were ever sworn to before the commissioner or that the contestee was ever notified that they would be sworn, nor did he, the contestee, ever cross-examine them, because the affidavits were ex parte. Other than this there is not a word in the record to sustain the statement made in the report of the majority that any number of persons made affidavit that they did not vote, so that the contestee did not have an opportunity to meet these affidavits, nor ought they to be considered. In nearly every instance where it was shown by the contestant that a voter whose name appeared on the poll list was dead it was shown by the contestee and by reputable citizens that the person alleged to have been dead, whose name appeared on the poll list, had died since the election, or that there were two persons of the same name in the precinct, and that one person of the name living in the precinct voted. This evidence will be found in the testimony with reference to Hayneville, Gordonsville, Whitehall, St. Clair, and Benton, in Lowndes County. In two instances it was shown by the close relatives of the person alleged to have been dead at the time of election that he was not dead at that time, but died since.

Evidence was offered by contestant that certain persons on the poll list in various precincts did not reside in the beat on election day. Especially is this true of Hayneville, Gordonsville, Benton, Churchill, and Whitehall. Contestee replied to these by introducing witnesses, taking up the names of these persons who had sworn, or were alleged by others not to have been in the precinct and voted, and showed by such witnesses that the voters whose names were on the poll list did reside in the beat and did vote, and in detail took up the testimony of contestant and disproved the statement made by the witnesses, and we deem it to be our duty to at least call attention of the House to these facts because justice to the contestee, and, what is more, justice to the people of that district, demand that the allegation that dead people were voted, persons not in the precinct were voted, should be, if it can be, disproved. It was disproved in this case. Ample proof was made by the contestee, and we are surprised that the majority thought proper to submit to the House the report with the simple statement that so many persons were proven not to have voted whose names appeared on the list, when, in fact, it was proven by reputable witnesses either that they did vote or that persons of that name resided in that precinct and voted.

We quote the following:

"Nor has a mere statement by a witness that a voter was or was not a resident without giving facts to justify his opinion been considered sufficient to throw out such vote. (McCrary, page 314.)"

This principle has been sustained by the House in Letcher *vs.* Moore (Clark & Hall's cases, page 479), Gooding *vs.* Wilson (Smith's Digest of Election Cases, 79).

In this connection we call attention to the fact that it was shown that every vote put in the boxes was presented to the inspectors by a person who gave the name entered on the poll list, and who appeared to be a legal voter; and thus the idea of conspiracy on the part of the inspectors is effectually rebutted. It also appears from the evidence of witnesses, both for contestant and contestee, that it is very common to find two or more colored people bearing the same name.

We desire to say in reference to the statements made in the report of the majority, to be found on page 6 of the report, regarding the appointment of inspectors of election and the refusal to give contestant representation at the precincts named, and the refusal of Judge Cobb to join in requesting the appointing board to give the contestant a division of "managers," and the statement of what occurred at certain public meetings, it was shown that the appointments were made in accordance with the law; "that the predominant parties in the precincts were Democratic and Republican, and that there were very few Populists in the county;" and that in every instance a Republican manager was appointed. In some instances those appointed did not serve, and their places were filled according to the provisions of the statute of Alabama; and after the appointment of the "managers" of election Mr. Grimmet, chairman of the Republican executive committee, expressed satisfaction at their appointment, and said "they were the best that had ever been appointed"; and these officers of election thus appointed were introduced by contestee and sustained the returns from the precincts; and at the meeting at Cross Keys referred to, at which the resolutions were passed, according to the testimony of Walker, a witness for contestant, there were only about 35 voters present, and three-fourths of them were the supporters of the contestant; and none of the friends of contestee voted on the resolutions. To like effect is the evidence in regard to the meeting at Bentley. The record does not bear out the statement of the report of the majority

that there was any conspiracy formed or carried out to defraud the contestant in the election precincts referred to, and every particle of the evidence offered in that regard was illegal and inadmissible, because the witnesses either testified at Montgomery before a notary public who had no authority to take their testimony or was offered in rebuttal.

It may here be stated that there is not the slightest evidence in the record so much as tending to show that the contestee, Mr. Cobb, at any time objected to the appointment of friends of contestant as election officers, or that he in any manner attempted to influence the appointing officers.

On the contrary, the witness Walker, on whose evidence the majority report so strongly relies, states that Mr. Cobb is now and has always been on the side of fair and honest elections, and no responsibility for any wrongdoing attaches to him.

We can not but conclude that if the rules of law and the plain words of the statute enacted for the conducting of election contests are observed and followed that this testimony upon which the majority base their report should be rejected. If it is, the contestant has no case. If the testimony that was not offered "in rebuttal only" is considered, and due regard is paid to the evidence of contestee, then the conclusion can not be reached that the contestant was elected. If the House should be of opinion that the testimony offered in rebuttal, after considering the testimony of contestee, should be considered, and that it makes a case that the contestee should reply to, then we suggest to the House that before it shall unseat the contestee upon testimony to which he has not had opportunity to reply, it should, in fairness to contestee, reopen the case and permit the contestee to take testimony in reply to that thus offered at the time and in violation of the express terms of the statutes, or at the furthest should declare this election void.

Fifth. There is another point of law raised by the contestee which, in our opinion, possesses the strongest merit, and which, if regarded, effectually destroys the claim of contestant to a seat in the House. It is that all the evidence touching the registration of voters contained in the record should be disregarded and suppressed. The grounds of this contention are, first, that the evidence tending to show registration was by certification only in the absence of any State law providing for such certification and without any proper certificate to the papers introduced, even if such law existed; and, second, that the registration law supposed to be of force in Alabama at the date of the late election was unconstitutional and void. This contention seems to us not only plausible, but conclusively established.

We will not prolong these views by a detailed argument on the question of the introduction of evidence by certification, since it is too plain for a controversy that if the registration law was unconstitutional it was not only void, but that every act done under it was likewise void. Men may differ in their construction of laws which admit as evidence papers certified by an officer, but no reasonable man would contend seriously, as we apprehend, that a paper prepared by virtue of an unconstitutional enactment could be made evidence by the certificate of any officer. This proposition is not directly denied in the majority report, but it is avoided by what appears to us a remarkable statement. That statement is as follows:

"The contestee further objected that the registration law was in conflict with the constitution of the State of Alabama, and that all of the registrations were unlawful. If any conflict exists between the statute and the fundamental law of the State it consists in the prohibition that no person not registered shall vote unless he shall become 21 years of age after the registration in May has been completed. The prohibition can only affect persons becoming residents of the county between the close of the May registration and the day of the election. The proof taken failed to show any such person. The contestee, Mr. Cobb, was therefore deprived of no vote by this prohibition, and consequently has been in no respect injured by it and has no cause for complaint against the law. Besides that, if this prohibition conflicts with the constitution in this respect it was inoperative as to adult persons taking up their residence in the county after the May registration and three months before the election, and they were entitled under the constitution to vote without being registered."

This statement seems to be made on the idea that an enactment may be unconstitutional as to a class of persons and valid as to all others, and also that no one can attack an enactment as unconstitutional unless he shall first be able to show that he has been injured by it. Our view is that as soon as an unconstitutional enactment is presented to the court in any way which affects the cause before it, it will be declared void, not only as to the parties litigant but as to all other persons. It is on this view that enactments similar to the one now under consideration have been declared void by the supreme courts of Pennsylvania, North Carolina, and other States of the Union.

In the above utterance the committee say in effect that the constitutionality of the registration law of Alabama was not a matter of concern to the contestee, because they say he was not injured by the enforcement of the law, and yet that the rejection of 100 votes at one precinct, shown to have been cast for the contestee, was proper, because the persons who cast them were not on the registration list. This contradictory logic we confess ourselves unable to appreciate. That the registration law was unconstitutional and void can not, we are confident, be seriously doubted.

We quote from brief of contestee on this point:

"Thus far I have chosen to present the reasoning in support of the proposition that the copies of registration certificates found in the record should be excluded, assuming that the registration law is valid. Such is not the case; that law is unconstitutional and void. The authorities are one to the point that, while the legislature of a State may enact registration laws as a regulation of the exercise of the right of suffrage, it can not under the guise of such legislation restrict or materially hinder the exercise of that right. 'Any law which has the effect to disfranchise a part of the voters will be unconstitutional.' (Eng. and Am. Enc., 285, 287, and 288; McCrary on El., p. 46, sec. 6; Paine on El., p. 295, sec. 341; 49 Wis., 555; 58 Penn., 338.)

"In People *vs.* Canady (73 N. C., 223) it is said: 'The constitution ordains that the general assembly shall provide for the registration of voters, and that no one shall vote without registration. This means that the general assembly shall provide the conveniences and necessaries, so that the voters can register. It is to facilitate the exercise of the right of the voters.' And the court held the registration law unconstitutional.

"The registration law of Alabama sought to be enforced at the late Congressional election provides that the registration shall commence on the first Monday in May and continue for eighteen days, and that thereafter no one shall be allowed to register except those who become of age between the date of closing the registration and the day of the election. It also provides that when a special election is held no one shall be allowed to vote except those whose names are already on the registration list and those who have become of age since the close of the last registration period. The constitution of Alabama prescribes the qualification of voters and confers the right of suffrage on all who possess these qualifications. It is true that it also confers power on the legislature to pass registration laws, but as a means of regulation only. Under the constitution, all men having the other qualifications of sanity, freedom from conviction for crime, etc., can vote who have resided in the State twelve months, three months in the county, and thirty days in the precincts where they offer to vote. It will thus be seen that the right to vote is denied by the registration law to a large number of citizens having every constitutional qualification. To illustrate: A citizen lives in the county of Macon in the month of May and registers in all respects as required by the registration acts; immediately thereafter he removes his residence to the county of Lee. In November following there is a general election, or in January following there is a special election.

"He is, under the registration law, denied the right of voting in either county, although under the constitution he is a qualified voter of Lee County, having resided there three months immediately preceding the election; he can not return to Macon County and vote, because he can only vote in the county of his residence; he can not vote in Lee County, because he did not and could not register there during the registration period. Here is a positive denial by a statute of the right to vote when the Constitution says it may be exercised. Again, a citizen is sick or absent from his home during the whole of the registration period; he can not register after he recovers or returns. Thus, for causes for which he is not responsible, he is denied the exercise of his right of suffrage. It is too plain for controversy that we must overrule all the adjudicated cases or hold this election law unconstitutional. The registration law must fall, and with it falls all the evidence in the record touching the matter of registration. The exhibits of registration lists must be excluded. They can not be looked to for any purpose. Not being legal papers in the office of the judge of probate, they were incapable of certification, and there has been no attempt to otherwise prove them. Not only do the lists made exhibits go out of the record, but with them goes also all the evidence of witnesses who are presented with these lists and asked to testify from them."

But we repeat, it is upon the evidence in chief, offered in rebuttal, and the evidence founded on a void registration law, and secondary evidence when the absence of the primary is not accounted for, that the committee make the case of the contestant to rest. Take away this illegal evidence, and the contestant's case vanishes with it. And here we call attention to a strong expression of Greenleaf:

"It (the best evidence) is adopted for the prevention of fraud; for when it is apparent that better evidence is withheld, it is fair to presume that the party had some sinister motive for not producing it, and that, if offered, his design would be frustrated. The rule thus becomes essential to the pure administration of justice. (1 Greenleaf, page 126, section 82.)"

—

Waiving for the time being the line of reasoning thus far pursued, we propose to examine the case in other aspects.

In the beginning of their report the majority of the committee make this observation:

"The said district consists and then consisted of nine counties, namely: Autauga, Chambers, Clay, Coosa, Elmore, Lowndes, Macon, Randolph, and Tallapoosa.

"The counties of Autauga, Lowndes, and Macon were designated as black counties on account of their large colored population, and the others were designated white counties because of the predominance of the white people in them."

They also say:

"The returns from the white counties gave the contestant, Mr. Goodwyn, a majority of 3,612 votes, while the 3 black counties returned majorities so large for the contestee, Mr. Cobb, as to extinguish the majority for the contestant in the white counties and give him a majority of 508. The returns were so canvassed as to report a majority of 748 for the contestee, Mr. Cobb; but that was evidently a mistake in the footings, by which the contestee, Mr. Cobb, was allowed 240 votes more than the returns stated to have been given for him."

The purpose in making these statements seems to be to convey in the outset of their opinion the idea that at the election under consideration the contestant was supported by the majority of the white voters of the district. There is no foundation for such belief, as we will show. It will be borne in mind that the contestant claims that in what he calls the white counties the colored vote was cast almost entirely for him. The population of these counties, white and colored, is as follows:

County.	White.	Colored.	County.	White.	Colored.
Chambers	12,460	13,858	Elmore	11,444	10,288
Coosa	10,552	5,354	Randolph	13,914	3,305
Clay	14,061	1,704	Tallapoosa	12,951	8,508

The majorities which the contestant claims it is shown that he received in these counties are as follows:

County.	Majority.	County.	Majority.
Chambers	538	Elmore	1,049
Coosa	400	Randolph	521
Clay	257	Tallapoosa	847

It will thus be seen by comparing the colored vote in these counties and the majorities received in them by the contestant how utterly unfounded is the claim that he had the support of the white voters in the so-called white counties.

We proceed to the examination of the evidence touching the conduct of the election at the several precincts which the majority of the committee have found to be tainted with fraud, taking them up in the order in which they appear in the majority report.

HONEYCUT PRECINCT, MACON COUNTY.

The majority report gives the names of the witnesses on whose testimony they altogether reject the returns from this precinct. The only three who gave any direct evidence for the contestant of the manner in which the election was conducted are J. D. Brooks, William Pierce, and Hilliard Judkin. Of these, J. D. Brooks was examined in the absence of the contestee and his counsel, and therefore escaped a cross-examination. He lived in a different precinct. He says he knows about 60 per cent of the voters in Honeycut. After making this statement, the following occurred:

Q. Are you acquainted with the names on the poll list of said beat from Nos. 58 to 104, both inclusive?

A. (Witness examines poll list.) I do not know any one of them.

Q. Do you know the voters on the poll list, Nos. 16, 17, 19, 55, and 56?

A. I don't know any such persons in this beat.

He then makes a statement about the conduct of the inspectors. Suppose this statement to be true, what does it amount to? He does not pretend that the names on the list handed him were not legal voters of the precinct; the paper on which he looked is not shown to have been the poll list. Whether

it was the poll list or some other paper we are left wholly to conjecture. It is not shown or even intimated that the disorderly conduct mentioned had the slightest effect on any voter, and in this connection it must be remembered that the contestant's claim is that his supporters remained away from the voting places. Therefore, if disorderly conduct affected anybody, it was the supporters of the contestee.

Three reputable white witnesses—F. H. Foster, G. F. Hagood, and Thomas O'Donnell—flatly contradict Brooks, and show that he was not so situated that it was possible for him to know who entered the polling places, or how many. The witness Walker, whose testimony is commented upon in the majority report, was twice examined. His first examination was in Montgomery County, outside the Fifth Congressional district, before a notary public living in one of the counties of the district. This examination was admitted to be illegal, but it is upheld notwithstanding its illegality and notwithstanding it was had in the absence of any representative of the contestee until after his examination in chief had concluded, on the ground that no proper objection seems to have been made to it by the contestee. This, to us, seems ground narrow indeed on which to permit the consideration in an important matter of evidence admittedly illegal. Without dissent the courts everywhere hold that illegal evidence should be excluded from consideration whenever objection to it is made, without regard to the period of time at which the objection is urged. All the evidence of a cause may be in and the case being submitted to the jury, and even at that stage the court will, without hesitation, exclude on motion any illegal testimony. Besides, under the contest law, even consent of parties would not justify the taking of testimony before other persons than the parties named in the statute. The contending parties may agree to facts, but not that disputed facts may be put in testimony before an officer or person not authorized to take evidence.

On the second occasion Walker was examined in rebuttal, the effect of which course has already been discussed. Further than this, his statements were contradicted by Sheriff Thompson, from whom he states that he received his information and whose truthfulness is vouched for by the contestant by being offered and examined by him as a witness. He was also contradicted by W. H. Hurt, probate judge, and W. H. Roney, clerk, who, with Sheriff Thompson, constituted the appointing board of inspectors of elections. These three men swear that they made no such agreement as Walker speaks of, but, on the contrary, made for each precinct as fair and legal appointments as it was possible for them to make.

Reed Smith is another witness who was examined in rebuttal. His statements are clearly evidence in chief. The contestee had no opportunity to contradict it. That he would have done so had such opportunity been offered appears clearly from the answer of the contestee to the notice of contest.

William Pierce was an employee of the contestant. He was not sent out with an honest purpose to find anybody, but rather to report that certain parties named to him could not be found. He says the precinct was a large one; that the weather was the worst he ever knew in Alabama; that he traveled on foot, visiting some houses and asking such persons as he met whether they knew any of the names which his list contained. His cross-examination effectually disposes of the pretension that he made proper search for anybody. Instead of pursuing this method, if the contestant had had an earnest purpose to ascertain the existence or not of the persons mentioned by him, there were other means to which he could have resorted far more effective than those adopted by him.

Hilliard Judkins testified as follows:

HILLIARD JUDKINS, being duly sworn, deposes as follows:

Q. What is your full name?
A. Hilliard Judkins.
Q. Where do you live?
A. Honeycut beat.
Q. How long have you lived in Honeycut beat?
A. I have been there about eighteen years; maybe longer.
Q. Where were you on the day of the Congressional election, the 6th of November last?
A. I was at Hardaway.
Q. Were you one of the managers at the election?
A. Yes, sir.
Q. What did you do in the management of the election?
A. I put the tickets in the box when they handed them to me.
Q. Were you there throughout the day and when they were counted out of the box?
A. Yes, sir; I was there.
Q. Did you with the other managers sign and send up the returns of that election?
A. I didn't sign myself. I told one of the other managers to sign for me. I was standing by and saw it done.
Q. How many votes did Judge Cobb receive at that box?
A. One hundred and five or six—one or the other of those numbers.
Q. Did you know all that came in there to vote?
A. I did not.
Q. Did you require the voters to surrender their registration certificates when they voted?
A. I did.
Q. Do you know of any Populites or Third Partyites in Honeycut beat?
A. No, sir; I don't know of any.
Q. Do you know any white Populites or Third Partyites?
A. I know of only one, Mr. Covington. I have never heard of any others.
Q. Was there anything said or done there to prevent anybody from voting who had a right to vote?
A. Nothing that I know of.
Q. Did you allow anybody to vote at that election who was not a registered and qualified voter?
A. No, sir. A certificate was demanded of everyone. Two or three asked if they could vote without being registered. Mr. Hagood told them no, unless they were registered.

While on cross-examination he said that he did not know certain persons named to him. He also said that there were a great many in the precinct with whom he was not acquainted, and that these persons may have been of the number.

It was upon this evidence, given at the instance of contestant, indefinite and inconclusive in character, and illegal as some of it was, and all of it contradicted where the opportunity to contradict was offered, and in disregard of such evidence as above given by Hilliard Judkins that the majority exclude from the count the whole precinct vote.

COTTON VALLEY PRECINCT.

The majority exclude the vote of this precinct on testimony more objectionable if possible. Stress is again laid on the testimony of Walker, which we have already examined. The statement is made that the registrar's book showed no more than 30 names. This is not borne out by the record. The registrar was himself examined and testifies that all the names appearing on the registration list as from that precinct were duly registered before him. He also explained why some pages of the book did not contain his signature.

Here we may remark in passing that if in this instance so much stress is to be put on the absence of the signature of the registrar to his registration lists, how is it that the committee can with consistency accept other registration lists, as they do without hesitation, to which the name of the registrar does not appear? It does not appear on any registration list from Lowndes County. To show the complete fairness and honesty of purpose on the part of Judge Hurt, it may be stated that while he was a witness on the stand for the contestee, and while he was being cross-examined by the contestant, he voluntarily proposed to bring into court the original registration lists of this precinct. To this proposition the attorneys of the contestee readily assented, in the light of the fact that they might with all propriety have objected to the contestant's procuring testimony for himself in that way. The book was brought before the commissioner, placed in the hands of the contestant's attorney, and then and there the contestant and his attorney had full power to have the whole book copied in the record had they so desired. It seemed to suit them better not to pursue that course, trusting rather to such benefit as they should gain from secondary and hearsay evidence of the contents of the book.

The testimony of McDuffie, to which allusion is made in the majority report, is not in the printed evidence. It was illegally taken in Montgomery, and for that reason excluded by the Clerk. Its printing was refused by the committee, and hence we naturally concluded it was not to be regarded. Hence we have not examined it, but what we have said above with reference to the opportunity afforded him to have the registration book of this beat put into the record effectually disposes of his evidence with reference to its contents

The majority in their report deal very summarily with the testimony of Essex Menefee. The contestant did not at one time regard it with indifference. In his first brief he makes allusion to Essex Menefee as one of the inspectors on whose testimony he relies. It was not until he came to file a second brief that it seemed to occur to him that Essex Menefee was an "ignorant, illiterate colored man." Meantime attention had been called to the following, which appears in Menefee's evidence, and to which allusion is made in the report of the majority:

Q. What is Mr. Goodwyn's politics?
A. He claims Third Party.
Q. Do you know any Third Party man in Cotton Valley beat?
A. No, sir.
Q. Do you know Mr. Goodwyn?
A. Yes, sir; I know him when I see him.
Q. When did you see him last?
A. I saw him at Mr. Boyd's when he sent for me to come over there.
Q. Was that when he was taking testimony in this contest?
A. Yes, sir.
Q. Did he have any conversation with you at that time? If so, state where it was, when it was, and what he said.
A. He sent for me and took me down on the lower side of the house, before I went in the room, and he said to me—he asked me if I didn't want to make some money; he asked me wouldn't I swear that there wasn't no more than about 30 or 40 voted at Cotton Valley.
Q. When he asked you if you wanted to make some money, what did you say to him?
A. I told him I wanted to make some money, but I couldn't swear there wasn't any more than 30 or 40 voted when I knew there was more.
Q. What else did he ask you?
A. He asked me if I was one of the managers. I told him "Yes, sir." He said if I would swear there was not more than 30 or 40 voted I could make some money; he had the money in his hand; I told him I couldn't say there was no more than that voted, for there were two other men who knew there were more, and they would know I lied; he carried me on in the room then before the men.
Q. Were you examined before the men?
A. Yes, sir; I don't remember what they said.

On cross-examination he said:

Q. What was it you said Mr. Goodwyn told you?
A. When I come up to the house he took me off to the lower side of the house; he asked me didn't I want to make some money. He asked me would I swear there was no more than 30 or 40 voted. He said if I would I could get the money. I told him I could not swear that, as there were two other men who knew there were more than that voted, and I would have to swear a lie.
Q. And you declined to swear a lie, did you?
A. I said I would not swear a lie if I know it.
Q. That's all he said to you, was it?
A. Yes, sir; he carried me on in the room there.

The facts about the first examination of this witness were these: He was examined in the absence of anyone to represent the contestee. When the attorney for contestee reached the place at which the examination was being held, he asked that the witnesses who had already been examined might be recalled that he might cross them. This was refused. He asked to see their testimony. This was refused. He asked to be permitted to take a copy of the testimony. This was refused. When afterwards called as a witness by the contestee, Menefee swore to the correctness of the returns made by the inspectors from that beat. He was severely cross-examined without any satisfactory results tending to impeach him. He said that on his prior examination he answered such questions as were asked him to the best of his knowledge at that time. Why such secretiveness on the part of the contestant to prevent the inspection of this witness's testimony, is a question which we are unable satisfactorily to answer consistently with fair dealing on the part of the contestant.

The contestant was on the stand as a witness in his own behalf after Menefee had been examined, and did not contradict *him, nor did* he call any of "the men" before whom Menefee swore he took him. While the majority reject the above-quoted evidence of Menefee, they still rely on other statements made by him as sufficient to warrant the rejection of the whole vote of this precinct.

If whole polls are to be excluded on testimony like this—illegal, vague, inconclusive, taken in an ex parte manner—and this report should become a precedent, the law in this behalf will be reversed and notice given to contestants to direct their efforts in the production of testimony, not to an honest effort to ascertain the truth, but to get into the record as much so-called evidence as possible which the contestee has not had the opportunity to controvert.

A number of witnesses were examined by the contestee touching the conduct of the election at this precinct. The managers swore to the number of votes cast, and other persons to the number of voters present and voting—all of which evidence more than overcame the evidence of the contestant.

TUSKEGEE PRECINCT.

Two witnesses are relied upon to impeach the integrity of the returns from this precinct, B. W. Walker and J. A. Grimmet. These men represent themselves to have been watchers at the election in the interest of the contestant. They swear to a certain number of colored voters who entered the polling place that day, but upon cross-examination it appears that they were

testifying not wholly from their own knowledge, but from testimony conveyed to them by other watchers who were stationed on the opposite side of the court-house in which the election was held and who were not called as witnesses.

Grimmet swore that he could see to the entrance to the court-house from where he stood. He afterwards, on cross-examination, retracted this statement. Here is the question and answer on this point:

Q. Is it not a fact that you could not see the door of the court-house from where you were?

A. On examination to-day I find that I could not see the door of the court-house from where I was.

Q. Were you not mistaken in your former testimony, in which you said you could see the court-house door from where you were?

A. I find that I was.

Q. Is it not a fact that you don't know that the list reported to you by the colored men was correct?

A. I can't say that I know that it was correct.

If Grimmet could not see the entrance to the polling place, Walker could not, for they were together. The contestee proved by several witnesses, including Sheriff Thompson, that it was impossible that Walker and Grimmet could have seen persons entering the polling place; that a number entered from the side of the court-house, opposite to where they were stationed, without ever coming in range of the view of these witnesses. It was also shown that the side of the court-house opposite to the witnesses was the business portion of the town, from which the large majority of voters approached the polling place.

The testimony of witness Thompson is referred to in the majority report, not only approvingly, but with emphasis. The credibility of Mr. Thompson is in this way affirmed and indorsed, as it was when he was called to the stand as witness for contestant. We also affirm Mr. Thompson's credibility, and call especial attention to his clear and intelligent testimony. It will be noticed that he swears with great distinctness that Grimmet and Walker could not see all the openings to the polling place, and that a majority of colored voters entered the polling place at a point where they could not possibly have seen them. He places Grimmet and Walker in front of Russell's store, and not livery stable. But the point we especially emphasize is Thompson's denial of Walker's statements, so often referred to in the majority report, to the effect that the contestant was to be deprived of representation at certain precincts. Here we have two witnesses whose credibility is vouched for by the contestant, who contradict each other in their statements. The one, Mr. Walker, sustained by no person, while the other, Mr. Thompson, is fully sustained on this point by witnesses Hurt and Roney.

We give the following extracts from the testimony of witness Thompson:

Q. Is it not a fact, Mr. Thompson, that the colored voters in this county are averse to the Populite party?

A. It is, and I had to send some extra deputies out to keep the Populites from running them away from the polls in one beat in this county.

Q. Is it not a fact, Mr. Thompson, that the colored voters are active and outspoken in opposition to the Populite party in this county?

A. It is.

Q. To what political party does Captain Goodwyn, the defeated candidate for Congress in the Fifth Congressional district, belong?

A. I think he claims to be a Jeffersonian Democrat or Populite.

Q. Explain, Mr. Thompson, if there was a rope stretched around the voting place, and who put it there?

A. There was. I put it there myself; was 50 feet from any window or door of the room.

Q. How many openings were there through the rope?

A. Three.

Q. Can you describe where they were located?

A. One was on the eastern portion, the other south, and the other in the northwestern portion.

Q. How far were these openings from the door that enters the court room to the voting place?

A. Between 50 and 60 feet.

Q. From where Mr. Grimmet was located, could he possibly see all of the openings in the rope?

A. He could not.

Q. Why could he not?

A. On account of the court-house wall.

Q. How near could he see to the opening that was beyond the wall from him?

A. Part of the time he couldn't see within 10 or 15 feet of it.

Q. Did not Mr. Grimmet spend the greater part of the day in a chair in front of Russell's store, where he could not see that opening in the rope?

A. I think he stayed there until about half past 12 o'clock.

Q. Did any voters go in at that opening during the day?

A. They did.

Q. Is it not a fact that a greater number of voters passed in that way to the polls?

A. I think they did. Most of the darkies voted there.

Q. About how many voters were in town on the 6th of November at the Congressional election?

A. I don't know; they were coming in all day.

Q. Is it not a fact that a large majority of the voters in town that day occupied that side of the street beyond where Mr. Grimmet was located?

A. It is. I saw a very few on the side where Mr. Grimmet was.

Q. Is it not a fact that most of the business of the town is done on that side of the square?

A. It is. There is very little business done on this side.

Q. How many booths did you have in the election here?

A. Either seven or eight.

Q. Was there anything to obstruct a voter at this box, within your knowledge?

A. No, sir.

Q. Did you have any conversation with Mr. B. W. Walker, in which you told him that there was an arrangement or conspiracy by which Mr. Goodwyn was to have so many beats and Judge Cobb so many?

A. I had no such conversation. I had several conversations with Mr. Walker, but nothing of that kind.

Q. Did you have any conversation with B. W. Walker or anyone else in which you said that there was an arrangement by which Mr. Goodwyn was to be denied representation in the appointment of managers in three beats of this county, by which this county was to be carried for Judge Cobb for Congress?

A. I did not. I had a conversation with Mr. Grimmet, chairman of the Republican executive committee, about the managers, and he asked me whom they were. I told him, and Mr. Grimmet told me, that they were all good managers and the best that had ever been appointed.

On cross-examination he said:

Q. Are you positive that they did not move down until the evening?

A. That is my best recollection. I couldn't state positively as to the time.

Q. You were asked about a conversation had with B. W. Walker. Didn't you state to B. W. Walker, in talking about the election, that if any frauds were to be committed in this county it would be at Tuskegee, Cotton Valley, and Honeycut precincts?

A. I did not.

Q. Didn't you have a conversation with him in which you used expressions conveying that idea?

A. I did not. Mr. Walker asked me about the managers, and I told him that we had appointed the best negroes, and that Mr. Grimmet had said that they were good managers and good Republicans.

Q. Some two or three weeks before the election, or some time in September, did you not go to Mr. Walker's place, find him in his field, go with him to his house, stay with him all night, sleeping in the same bed, and have a conversation with him in which you expressed the opinion that if any frauds were to be committed at the coming election it would be in Honeycut, Cotton Valley, and Tuskegee precincts?

A. No, sir; that is not the conversation. I drove by Mr. Walker's fish pond, and I think Mr. Walker got in my buggy; we went to his house and I stayed all night with him. Mr. Walker was telling me about the resolutions he had written out for Mr. Goodwyn, also about a proposition which he had written for Mr. Goodwyn and asked Judge Clark to sign requesting the probate judge, clerk, and sheriff to appoint their managers. I told Mr. Walker that we were going to appoint Goodwyn managers in every beat in the county where Goodwyn had any men, and in Tuskegee, Cotton Valley, and Honeycut that we would appoint negro managers.

The majority report denies that Walker's testimony was taken in rebuttal, but it is true that it was taken in the county of Montgomery in an illegal manner, as heretofore stated.

The evidence taken at this precinct for the contestant was contradicted in every particular by a number of witnesses introduced by contestee, to which the majority report makes no allusion. These witnesses prove the votes polled at the precinct, some of them by direct testimony and others by facts going to show the number of voters who were in town and about the polling place.

BENTON, LOWNDES COUNTY.

To sustain their conclusion in regard to this precinct the testimony of a colored witness, A. J. Wood, is mainly relied on. His testimony is made mainly to the effect that he did not know certain persons. To show how unreliable his statements are we extract from his testimony:

Cross-examination:

Q. You said in your direct examination that you knew Jim Burnett and that he lived in Dallas County; are you positive that he lived in Dallas County on the 6th day of November last year and for three months prior to that time?—A. Yes, sir; I am positive.

Q. Do you know where the lines are between Lowndes and Dallas counties?

A. I know pretty much where it is.

Q. You do not know, then, exactly where the said line is, do you?

A. From what people have told me I know where some of the lines are.

Q. How, then, do you know that Jim Burnett does not live in Lowndes County? Is it from hearsay?

A. Jim Burnett has told me that he pays tax in Dallas County.

Q. Do you know of your own knowledge where James Grumbles, Perry Hill, E. J. Johnson, Jordon Maxey, and Dave Wright lived last year, or on the 6th day of November last year?

A. I know that all of them except Dave Wright lived in Dallas County and that Dave Wright lived in Lee County.

Q. Is it not a fact that all of the voters asked about above live on or near the line which divides Lowndes and Dallas counties?

A. E. J. Johnson and Jim Burnett live near the line; the others do not.

Q. How do you know in what beat Ike Cunningham lives?

A. Ike Cunningham has told me where he pays his tax.

Q. Is it not a fact that all the voters in this county pay their tax to the tax collector of this county or one of his deputies?

A. It is.

Q. Well, then, how can you know in what beat a man lives by where he pays his taxes?

A. I heard from the man that pays his tax and by his tax collector's and tax assessor's receipts.

Q. Have you ever asked him to show you, and did he ever show you, his tax assessor's or collector's receipts?

A. I don't recollect that I ever did.

Q. Well, then, are you swearing here on what somebody has told you?

A. No one, unless it was Ike Cunnigham—the one that we have been speaking of.

Q. Then Ike Cunningham is the man who is so truthful that you will swear by anything he tells you?

A. He is not.

We fail to find support given to the conclusion of the majority report in regard to this precinct from the other witnesses named in the report.

While Ed Freeman does say that he "didn't see airy one vote," he does not say that no colored man entered the polling place. We give the following extract from his testimony:

Q. Do you know Hamp Lee and Jim Barnett; and if so, do they live in this county or Dallas County?

(Contestee objects to the question on the grounds that it calls for illegal, irrelevant, and incompetent testimony.)

A. Yes, sir; I know Hamp Lee and Jim Barnett. Well, Hamp Lee lives in Dallas County. I am not certain, but have been told that he lives in Dallas County.

(Contestee objects to the answer on the grounds that it is secondary, hearsay, incompetent, illegal, and irrelevant testimony.)

Q. Has the line between Lowndes and Dallas counties been pointed out to you or shown you, and do you know the house in which Jim Barnett lives; and if so, is that house situated on the Dallas or Lowndes side of the line dividing the two counties?

(Contestee objects to the question on the grounds that it calls for illegal, irrelevant, incompetent, and secondary evidence, and the said question has no bearing to the issue in this cause. Contestee here objects to the interlineation of the words "you or shown you" in the last above question after the witness had to answer said question and after the objections of the contestee to the question, as it then stood, had been made.)

A. They were not exactly shown to me, but have been told to me. The house in which John Barnett lives was shown to me to be in Dallas County.

Cross-examination:

Q. Are you positive that Hamp Lee lives in Dallas County?

A. I am positive that Hamp Lee lives in Dallas County.

Q. How do you know that he lives in Dallas County?

A. I have been told that the lines are this side of where he lives.

Q. Who gave you this information?

A. Old Dr. Kendall, in his lifetime.

Q. How long has it been since Dr. Kendall gave you this information?

A. I reckon it has been fifteen years, to the best of my recollection.

Q. Where were you and where was Dr. Kendall when he gave you this information?

A. In his office, here in Benton.

Lee Barlow has nothing whatever to say about the registration list. His intelligence is shown by the following extracts from his testimony:

Q. Lee, do you know who is now governor of Alabama?

A. I hear them say who are.

Q. Who do you hear them say is governor of Alabama—Mr. Cleveland or Mr. Kolb?

A. Well, I hear them say Mr. Kolb.

Q. Do you know who is President of the United States?

A. No, sir; I haven't caught on to that yet.

The colored witness, Ed Hayden, was examined in the absence of the counsel for contestee. He was handed a list and asked to look at it and say how many he recognized. Whether it was any list now in the records of evidence is not shown except by the statement contained in the question. He signs his name with a mark, thus leaving it a question of doubt whether he could read the names on the list. We give the following extracts from the testimony of Mr. Robinson:

Q. What has been your opportunity to become acquainted with the voters of Benton precinct, good or bad? Are you not acquainted with nearly all of the voters living in said precinct?

(Contestee objects to the question because it calls for illegal, irrelevant, and incompetent testimony, and does not tend to prove or disprove any issue in this case.)

A. Have lived here seven or eight years, and within 5 miles all of my life, but I don't suppose that I know more than one negro in ten in the precinct.

The contestee examined 8 witnesses, including the managers of the election. These witnesses fully sustain the regularity of the election, and they prove also the number of legal votes cast.

The witness Steele impeaches the contestant's witnesses. Wood, Freeman, and Hardy.

CHURCH HILL, LOWNDES COUNTY.

The testimony of James Bryant was secondary in character. He was not shown the registration book, but was handed a paper, and asked if it was a copy of this book. He answered, "It was, so far as he could then recollect." And it is upon this evidence that the majority report relies as proof of the registration list.

The colored witness, Scott Moore, testifies simply that he did not know certain persons which were named to him.

Of like character is the testimony of Charles Heabowski. This colored witness was examined in rebuttal, and hence contestee could not offer evidence to contradict him. When asked his occupation his answer was, "Farming; working on sewing machines, clocks; and sometimes shoe work; sometimes politics, and sometimes mission work."

No witness by the name of Pierce was examined by contestant, but one Affie Pearce was examined in rebuttal. He only "reckons they ought to be about 250"—speaking of the number of voters in the precinct.

Mealing's evidence, like the others, is secondary and hearsay. When asked how he knew that certain persons were not voters, his answer was, "Because their names were not on the poll list."

In direct conflict with contestant's witnesses is the testimony of five witnesses examined for contestee.

HAYNEVILLE PRECINCT, LOWNDES COUNTY.

The majority report makes summary disposition of this precinct. The whole vote is excluded, in the face of the following facts:

The contestant introduced as witnesses two of the inspectors of election, H. M. Caffy and J. M. Salley. Each of these witnesses testified to the fairness of the election and to the number of legal votes cast. The third inspector, W. D. Haynes, was examined by the contestee, and no question was asked him on cross-examination. He says that the election was conducted honestly and fairly in all particulars.

By introducing the inspectors as witnesses, the contestant indorsed them as credible persons. But to throw out of the count a whole poll it must appear that the managers of the election were willfully corrupt. This rule of law has been affirmed and reaffirmed again and again. Hence, to throw this poll out of the count the law must be put aside and the testimony of witnesses who knew more about the election than anyone else must be wholly disregarded, and they were vouched for by contestant.

A party can not impeach his own witness, although afterwards called by the other side, either by general evidence or by proof of prior contradictory statements. (1 Wharton, section 549.)

The entire poll should not be rejected except in extreme cases. (McCrary, page 269, section 303.)

Mere evidence that illegal votes were polled does not authorize the poll to be thrown out. It must first be shown that the officers acted dishonestly or collusively. (Paine on Election, section 510.)

Many witnesses were examined by the contestee, both white and colored, who showed, conclusively, the large number of persons, white and colored, particularly the latter, that were present at the polling place, their enthusiasm for the contestee, and that they were seen through the whole day going into the polling place to deposit their ballots. If any evidence is wanting to sustain the managers at this precinct, we fail to discover it. To throw out the whole vote is to disregard the law and to put aside without reason the strongest of testimony.

LOWNDESBORO PRECINCT, LOWNDES COUNTY.

The witness McRee gives no testimony which can be regarded as legal. He is not shown any registration list, but merely swears to what his recollection was at the time he was examined. His testimony would not have been received by any respectable court, because it was hearsay and secondary.

J. T. Dickson does not swear, as stated in the majority report, that there are about 300 voters in the precinct. He says, on the contrary, that he does not know the number of voters in the precinct, but that of that number he "reckons" that he knows 300.

It was proved by the contestee that there were twice that number of voters in the precinct.

J. A. Reese was examined in rebuttal, and therefore the defendant had no opportunity to examine witnesses touching the matter of his testimony. And so it was of C. E. Reese, jr.

It is upon the testimony of this witness, who swore to what Dickson told him as to the number of votes cast, that the committee seems to rely for the number of votes cast at this precinct.

WHITEHALL, LOWNDES COUNTY.

The main reliance for their conclusion touching this precinct is upon W. A. De Bardelaben. He was twice on the stand. But it appears that the reliance of the majority report is on his evidence taken in rebuttal. He seems to have been a very willing witness, a strong partisan, and suffered himself to be used to impeach the integrity of his own brother.

The witness Alexander White was also examined in rebuttal. He is a colored man who had been indicted for larceny. Because of which fact, and his incompetency, he was removed from the postmastership. His testimony is largely hearsay.

The majority report says that this witness was in great part corroborated by J. L. Long, when the only testimony given by Long was in rebuttal, and confined to the single statement of the death of one Henry Burke.

Against these witnesses for contestant the contestee examined seven witnesses, the evidence of not one of whom is referred to in the majority report. They directly and flatly contradict the evidence of contestant's witnesses.

STATESVILLE, AUTAUGA COUNTY.

The only witness named in the majority report on which they sustain their conclusion as to this precinct is one W. L. Prather. The majority report says that an effort was made to impeach this witness by one J. B. Golson. This is an entire mistake. Golson was called on to sustain Prather after he had been successfully impeached by six reputable white gentlemen of that precinct.

These witnesses show not only that Prather was entirely unworthy of belief, but could not possibly have seen what he testifies to have seen. They also swear that the election was fair, and that the contestee received the full number of legal votes returned for him.

—

In our concise examination of the evidence touching the several precincts which are attacked by the contestant we have closely followed the report of the majority, for the reason that this report gives the evidence on which its conclusions are based; and an analysis of it shows how far short it comes from that degree of proof necessary under all the decisions to warrant the exclusion of whole polls, and too much emphasis can not be given to the fact that without the exclusion of whole polls the contestant has no case. This analysis also shows the unreliability of the witnesses referred to in the majority report.

The contestee did not make extensive effort to attack the conduct of the election in counties in which the friends of contestant had control of the election machinery, for the reason, as stated by him before the committee, and which reason we believe to be supported by the record, that the contestant had failed to make out a case.

But contestee did go far enough in this direction to show that the registration law, on which the majority report puts so much stress, was disregarded by the friends of the contestant or made use of by them to control illiterate voters in the interests of the contestant. It was shown that at one precinct in Elmore County the Populist election managers refused to appoint more than one assistant, and he a Populist, and that in the opinion of the witness, who was a Democratic inspector, this assistant fixed the tickets for the colored voters without asking the voters how they wanted to vote.

It was shown that at other precincts voters claiming to be illiterate were not sworn, as provided by the election law, and that some of them were allowed to vote without producing registration certificates.

At still another precinct it was proven that the Populist assistant declared publicly that if a white man asked him to fix his ticket he would do so according to his expressed wish, but if a colored man applied to him he would fix his ticket just as he (the assistant) desired him to vote; and that this assistant took control of the colored voters as they entered the polling place and marked their tickets for them without carrying them into the booths.

These and other instances of misconduct on the part of the friends of the contestant were proven, and such proven facts emphasize the injustice done to the contestee by deciding the case against him on evidence which he had no opportunity afforded him to contradict.

The following extract from the majority report is significant:

"The presumption in favor of the official acts of the public officers whose conduct has become involved in this contest has been completely extinguished by the evidence establishing their frauds, and it is very clear that their attempt to disprove their guilt would have been fruitless.

"It is quite evident that more proof beyond that which was given could have been secured against them."

By this kind of assumption the majority report justifies the acceptance of evidence in chief when given in rebuttal, denying opportunity to the contestee to meet it, and the utter disregard of the strong and abundant evidence given by contestee.

We assert again that such assumptions are not based or authorized by any legal proof in the record, nor can the conclusion stated be justly reached by a judicial investigation of the record.

By all the decisions it is declared that fraud is not to be presumed and can not be inferred from evidence that merely raises a suspicion of its existence; and especially is it the law that a conspiracy to commit fraud can only be established by the strongest proof. The majority report assumes a conspiracy to have existed between reputable citizens without evidence to support such assumption.

If principles of law about which there is no conflict are applied in the trial of this contest, then there is not so much as a plausible pretext for unseating the contestee. If, on the other hand, the contest is tried on the whole evidence, without regard to legal objections to its admission, due regard being given to the evidence of contestee as well as that of the contestant, the contestant has failed.

So that, to reach the conclusion of the majority report, the law must be put aside and the evidence of contestee wholly disregarded on the illiberal assumptions indulged by the majority report.

We give most emphatic dissent to both propositions, and believe that the law and facts in the case not only authorize but demand the adoption by the House of the following resolutions, which we offer in substitution of those offered by the majority of the committee:

"*Resolved*, That Albert T. Goodwyn was not elected a Member of the Fifty-fourth Congress, and is not entitled to a seat therein.

"*Resolved*, That James E. Cobb was elected a member of the Fifty-fourth Congress, as a Representative from the Fifth Congressional district of the State of Alabama, and is entitled to a seat therein as such Representative."

C. L. BARTLETT.
HUGH A. DINSMORE.
S. S. TURNER.

The SPEAKER pro tempore (Mr. BARRETT). The gentleman from Georgia [Mr. BARTLETT] asks unanimous consent that the views of the minority of the committee may be printed as part of his remarks in the RECORD. Is there objection? The Chair hears none, and it is so ordered.

Mr. DANIELS. I object, unless it is agreed——

The SPEAKER pro tempore. The Chair understood the gentleman from Georgia to yield the residue of his time to the gentleman from Alabama.

Mr. BARTLETT of Georgia. Yes, sir.

Mr. DANIELS. Mr. Speaker——

The SPEAKER pro tempore. The gentleman from Alabama is entitled to the floor.

Mr. DANIELS. If the report of the minority goes into the RECORD, we desire that the report of the majority shall also go in.

Mr. BARTLETT of Georgia. I have no objection to that.

The SPEAKER pro tempore. Does the gentleman from Alabama yield to the gentleman from New York [Mr. DANIELS].

Mr. COBB of Alabama. What is the proposition?

The SPEAKER pro tempore. The gentleman from Alabama, as the Chair understands, declines to yield to the gentleman from New York for the purpose of making the request.

Mr. COBB of Alabama. I yield to the gentleman.

Mr. COOKE of Illinois. Mr. Chairman, the gentleman from Georgia [Mr. BARTLETT] requested that the views of the minority be printed in the RECORD as part of his remarks. Now, that is objected to, unless the report of the majority may also be printed.

The SPEAKER pro tempore. The Chair asked if there was objection to the request of the gentleman from Georgia, and none was made; so the views of the minority were ordered to be printed in the RECORD.

Mr. DINGLEY. But the gentleman from New York rose and objected to the request.

Mr. DANIELS. I did object, but the attention of the Chair was directed in another way.

The SPEAKER pro tempore. The gentleman from Alabama, as the Chair understands, has yielded the floor.

Mr. COBB of Alabama. No, sir.

The SPEAKER pro tempore. The Chair understood the gentleman to yield; and if so, the gentleman from Illinois [Mr. COOKE] has the floor.

Mr. COOKE of Illinois. Now, I ask unanimous consent that inasmuch as the gentleman from Georgia desires that the views of the minority be printed in the RECORD as part of his remarks, it be also unanimously agreed that the report of the majority be printed in the RECORD.

Mr. BARTLETT of Georgia. I hope there will be no objection to that.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the report of the majority of the committee be printed in the RECORD. Is there objection? The Chair hears none.

The report of the majority of the committee is as follows:

The subscribers, members of the Committee on Elections No. 1, do hereby respectfully report that they have heard the contest in the election case pending before the House of Representatives, wherein Albert T. Goodwyn is the contestant and James E. Cobb is the contestee, and have considered the proofs, arguments, and objections of the said parties, and duly examined the evidence submitted by said parties, and do determine and decide as follows:

The said contestant and contestee were candidates for the office of Representative in Congress from the Fifth Congressional district of the State of Alabama at the election held in said district on the 6th day of November, 1894.

The said district consists and then consisted of nine counties, namely Autauga, Chambers, Clay, Coosa, Elmore, Lowndes, Macon, Randolph, and Tallapoosa.

The counties of Autauga, Lowndes, and Macon were designated as black counties, on account of their large colored population, and the others were designated white counties because of the predominance of the white people in them. It was believed that the votes of the colored voters would not be counted as they were cast in these three black counties, as they were advised by their leaders neither to register for nor vote at the election in November, 1894, and they very generally conformed to that advice.

The contestant, Mr. Goodwyn, is a Populist, and was nominated by that party and by the organization known as the Jeffersonian Democrats, and his nomination was afterwards approved by the Republican committee. He therefore became the nominee of these three party organizations.

The returns from the white counties gave the contestant, Mr. Goodwyn, a majority of 3,612 votes, while the three black counties returned majorities so large for the contestee, Mr. Cobb, as to extinguish the majority for the contestant in the white counties and give him a majority of 508. The returns were so canvassed as to report a majority of 748 for the contestee, Mr. Cobb; but that was evidently a mistake in the footings, by which the contestee, Mr. Cobb, was allowed 240 votes more than the returns stated to have been given for him. He has claimed before the committee that another 100 votes should be added to his majority, because that number of votes was rejected in one precinct and were offered by persons who had not been registered during the May registration. But as the statute of Alabama denied the right to vote to persons not so registered, excluding minors attaining the age of 21 years after the May registration closed, and these persons did not appear to belong to the excepted class, nor to have become residents of the county after the time for the first registration had passed, the exclusion of these 100 votes was proper.

To support his contest for the seat in the Fifty-fourth Congress the contestant claimed that the returns from three precincts in Macon County, seven in Lowndes County, and two in Autauga County were false and fraudulent, and that they returned a much larger number of fraudulent votes than the majority reported for the contestee, Mr. Cobb. To lay the foundation for the proof of these facts, and, in part, to supply that proof, the contestant, Mr. Goodwyn, produced in evidence copies of the registration lists and of the poll lists certified by the judges of probate in these black counties. The contestee, Mr. Cobb, has strenuously objected to the introduction of these copies, on the ground that the registration copies were no more than copies of copies, and for the want of power in the probate judge to certify these copies of registration and poll lists so as to make them evidence. These objections are considered to be unfounded under the language of the laws of Alabama. They require—

"SEC. 7. That each registrar shall, within two weeks after the expiration of the time prescribed for registration, make a true copy of the list of names registered, which copy, along with the original registration list, he must return to the office of the judge of probate of the county.

"SEC. 8. That the judge of probate shall, from the registration list of electors returned to his office, make a correct alphabetical list of the electors so registered by precincts or wards, which list shall be certified by him officially to be a full and correct transcript of the list of registered electors as the same appears from the returns of the registrars in his office. One copy of said list for each precinct or ward the judge of probate shall deliver to the inspectors of election in each precinct or ward immediately preceding every election."

The probate judge, it will be seen, is not to make a copy of either the registration list or of the copy of it. But he is to make a complete alphabetical list of the electors registered by precincts or wards, and to certify the list officially; and one copy of said list for each precinct or ward the judge of probate shall deliver to the inspectors of election in each precinct or ward immediately preceding every election. The list required to be made by the judge of probate is therefore not a copy of the registration list, but a new and different list, containing, it is true, the same names as are on the registration lists, but alphabetically arranged. It is to be an original list so far, to be furnished for the convenience and instruction of the inspectors of election, and when he certified to a copy of that registration list it was to a copy of his own list, which remains in his office as a part of its permanent papers or records. And his authority to certify a copy of that list and make it evidence has been fully supplied by the following provisions of the laws of Alabama:

"Copies of official bonds or other instruments or papers required to be kept by any officer of this State, and transcripts from the books and proceedings required to be kept by any sworn officer of the State, are presumptive evidence in any civil cause, and have the same legal effect as if the originals were produced and proved, upon the certificate of the custodian thereof that it is a true copy of the original; but the court may, on motion, require production of the original, if practicable, when necessary to promote the ends of justice."—*Code of Alabama*, section 2788.

"All transcripts of books or papers required by law to be kept in the office of the secretary of state, or the office of the auditor, when certified by the proper custodian thereof, must be received in evidence in all courts; and it is no objection to such transcript that the book from which it is taken is a copy of office books belonging to the United States."—*Code of Alabama*, section 2785.

The contestee, Mr. Cobb, has denied the application of this section to the certified copies made because the law has not declared that the list shall be kept in the office of the judge of probate. But an express direction to that effect is not necessary. It is sufficient that the statute by implication contemplates that one of the list shall remain in the office; and that it clearly does by the eighth section of the law already quoted. For that provides for the probate judge to deliver to the inspectors one of the lists made by him, and as no other disposition has been made of the other it must remain where it is found, and that is in the custody and office of the probate judge as one of the public papers or records. The list is, therefore, a paper as much required to be kept by him in his office as if that had been done by the most explicit language of the law. For what is plainly to be implied from the law is as truly within its intent as though it had been most clearly expressed.

The inspectors of election were also required to send the poll list of the election to the judge of probate, for the obvious reason that it was to be the basis of the final and official canvass of the votes; and that in like manner became a paper, in the language of the statute, to be kept in his office, and a copy of which he could make presumptive evidence by his official certificate. United States Revised Statutes, section 123, also lends its sanction to certified copies of papers delivered to the officer taking evidence in contested election cases by requiring him to return them to the Clerk of the House of Representatives, to be used as evidence in the hearing and decision of the contest. The returns of the voting precincts were required to be canvassed by the board of supervisors of the county, who were directed to state the exact number of votes cast in the county for each person voted for and the office voted for. The canvass was to be made on the returns filed with the probate judge. The canvass certificates of the supervisors were required to be filed in the office of the probate judge, who must immediately forward them, so far as they include Representatives in Congress, to the secretary of state, where, within fifteen days after the election, they were to be opened and counted in the presence of the governor, secretary of state, and attorney-general, or any two of them; and of the result the governor was required to give notice by proclamation.

This was the final canvass, and it may be assumed from the fact that the contestee is in this House a sitting member that the canvass both by the boards of supervisors and at least two of these State officers were made, and that each board had the votes returned by each of these precincts or counties before them. A certified statement of the final canvass was produced in evidence. But the contestee, Mr. Cobb, objected that the secretary of state was without authority to make the certificate evidence. The grounds taken in support of the objection are practically the same as those already considered concerning the power of the probate judge to certify copies of papers in his office. But it is the manifest purpose of the law that all these returns, and the canvasses made from them, shall become records in these public offices, to be preserved and maintained as evidence of the titles of the various officers found to be elected; and as such the certificate of the custodian thereof that it is a true copy of the original has the same legal effect as if the original were produced and proved.

There was introduced in evidence over this and other objections a certificate of the secretary of state with the following heading:

"STATE OF ALABAMA, *Office of Secretary of State:*

"I, J. K. Jackson, secretary of state of the State of Alabama, hereby certify that the records in this office show that on the 19th day of November, 1894, the returns of the election held on the 6th of November, 1894, for members of Congress were duly canvassed by the governor and secretary of state, as required by law, and the following result was declared:"

Then follows a statement, by counties, of the vote of the Fourth Congressional district, and immediately under that is the following statement:

Fifth Congressional district.

County.	James E. Cobb.	Albert T. Goodwyn.
Autauga	613	225
Chambers	1,195	1,733
Clay	806	1,063
Coosa	810	1,210
Elmore	1,066	2,115
Lowndes	3,276	189
Macon	1,035	150
Randolph	646	1,167
Tallapoosa	1,204	2,051
	10,651	9,903

And in conclusion it is added:

"In testimony whereof witness my hand and the great seal of State at the capitol this the 6th day of December, 1894.

"[SEAL.] J. K. JACKSON, *Secretary of State.*"

This instrument was given in evidence after a statement made by the contestant of the returns sent by the different canvassing boards of the Fifth Congressional district to the secretary of state, which is the same as that contained in the certificate of the secretary of state. There was no objection taken to the secretary's statements and certificate when they were offered in evidence. But at the conclusion of the deposition of the contestant it is stated by the contestant alone—

"That to each of said questions and answers such exceptions and objections are reserved as the contestee could and can legally make and reserve, and such legal exceptions and objections are to have the same force and effect as if entered specifically to each of said questions and answers when propounded and taken, and this argument applies to exhibits introduced."

And in consequence of this agreement the contestee, Mr. Cobb, now urges the objection that the secretary of state's certificate is formally defective. But this objection does not seem to require the exclusion of the document, for the secretary has also certified to the essential facts required to be stated and shown, and they are that the returns of this election had been canvassed by the governor and secretary of state, two officers of law empowered to make the canvass, and the result following was declared, which included the votes, by counties, returned for each of these candidates, and the result for each, including, as previously stated, a mistake in footing of 240 votes for the contestee, Mr. Cobb. The certificate of attestation then followed, verified by the great seal of the State and the signature of the secretary. And these facts, irrespective of other matters referred to, constituted lawful proof of the fact of the canvass and the result reached.

To obviate other objections to the evidence of the canvass by the several boards of supervisors further and more formal statements and the certificate of the secretary of state have been obtained and produced before the committee, and they have been received to correct any informality in the proof previously made. It is record evidence, and therefore admissible to correct informalities in the proof previously made. But there really was no such informality, for the contestant testified positively to the returns sent to the secretary of state, and no ground of objection appears to his answer.

The certificate and statements produced show that in Elmore County the sheriff, who was one of the supervising canvassers, failed to sign the statement. But as it was subscribed by the probate judge and a person acting, as he may be presumed to have done, in the place of the clerk, and they were a majority of the board, that was sufficient.

These proofs are lawfully in the record, therefore, and answer all the requirements of the law for the purposes of this contest, and the objection made should be disregarded. And together they establish the returns made for each county in the district, and the majority certified for the contestee, Mr. Cobb.

The contestee further objected that the registration law was in conflict with the constitution of the State of Alabama, and that all of the registrations were unlawful. If any conflict exists between the statute and the fundamental law of the State, it consists in the prohibition that no person not registered shall vote, unless he shall become 21 years of age after the registration in May has been completed. The prohibition can only affect persons becoming residents of the county between the close of the May registration and the day of the election. The proof taken failed to show any such person. The contestee, Mr. Cobb, was therefore deprived of no vote by this prohibition, and consequently has been in no respect injured by it, and has no cause for complaint against the law. Besides that, if this prohibition conflicts with the constitution in this respect it was inoperative as to adult persons taking up their residence in the county after the May registration and three months before the election, and they were entitled under the constitution to vote without being registered. The objection that the notary could not act beyond the bounds of the county of which he was an officer has already been overthrown by the House in another case and therefore requires no further attention here.

Evidence was taken which the contestee urges was not within the scope of a proper rebuttal; but it was mainly to prove that persons did not vote whose names were on the poll lists. Similar proof had been previously taken, and there can be no reason for supposing that the contestee, Mr. Cobb, was specially prejudiced by the order of this evidence, for it seems to have been beyond his power of contradiction. The notary should not have taken evidence beyond the limits of the Fifth Congressional district without consent. But as to the five witnesses whose testimony was taken in Montgomery County, the objection of want of authority was only made to the witness Lynch, and his evidence has not been considered on this occasion. As to the others, the absence of objection warrants the inference of consent, and their evidence is legally before the House. Other objections were from time to time taken to the form of questions, and to evidence, both pertinent and competent, which do not require any special attention, as they are without merit.

The real matter remaining to be examined is that relating to the registrations, the poll lists, the general conduct of the elections, and the failure to give the contestant representation on the election boards of the contested precincts by persons in whom he and his supporters confided. Formal representation was given to him in several of the precincts; but it was by persons who could be controlled, deceived, and hoodwinked, as the majority of the election boards intended should be done. That, as well as the most astounding frauds, will appear from the evidence relating to the election in the several controverted precincts, which will now be referred to in support of the charges which have been made.

HONEYCUT BEAT, NO. 6.

Honeycut beat, No. 6, Macon County, reported Cobb 106; none for Goodwyn. The polls were in a mill house. J. D. Brooks swears that he kept the tally of the votes polled up to 3.30 o'clock; that 53 persons entered the mill house up to that time; some of them carried in corn to grind, and stated that they did not vote; that there was a rush for grinding that day, and that about one-half of those who entered the mill carried grists. Two of the inspectors, he testifies, were drinking, disorderly, shooting, and threatened Sanford, who, with Brooks, was watching the polls. It was testified by Mr. Walker, a witness for contestant, that he was informed the contestant was to have no representative at the polls in the controverted precincts of Tuskegee, Cotton Valley, and Honeycut, in Macon County, and there the Cobb men expected to count Cobb's majority. He testifies further that at a public meeting in Benton, in the county, when Mr. Cobb was present, he was asked to join with the citizens in requesting the appointing board to give Mr. Goodwyn a division of managers in these precincts. He refused to agree to that. After Mr. Cobb refused to join in the request a further resolution was adopted asking the board to give Mr. Goodwyn the representation, adding that the refusal would be regarded as in the interest of fraud for Judge Cobb.

Reid Smith gave similar evidence, that he was informed that Goodwyn in seven beats of Macon County would have representation at the polls, which proved to be true, but in these three beats he would not, and that also proved to be the fact. He was present at the Benton meeting which requested Mr. Cobb to unite in securing representatives for Goodwyn in Tuskegee, Cotton Valley, and Honeycut, and he stated that Mr. Cobb opposed the resolution alone, but it was adopted, and then the meeting unanimously adopted another resolution requesting such representation. The contestant gave similar evidence, and that he was refused representation in these three beats, and in the other two black counties, in which beats the contestee secured his majorities.

William Pierce, who had been a bailiff in Honeycut beat about a year, testified that he reckoned he knew two-thirds of the voters, white and black, in Honeycut beat. He was then asked if he knew any of 52 persons named to him, and he testified that he did not; that he had made an effort to find them and spent three and a half days traveling over the beat, making inquiries for them as best he could; that he looked for them and did not find any of them. He acted under a subpœna for them as witnesses to give evidence. These persons appear to be on the poll lists of this beat as part of the vote of 106 given to the contestee.

Hilliard Judkins testified for the contestee that 105 or 106 votes were taken at this precinct at the election of 1894 for member of Congress, but he knew none of these persons whose names were repeated to him, unless it might be Mr. Thomas, a preacher. No direct evidence was given as to the number of persons who voted at this precinct. The evidence does not afford a fair ground of conjecture as to the number beyond Judkins, for Green was not registered, and the best that can be done, and the only practical disposition, is to reject the returns altogether, with that one exception; for certainly they are in other respects overthrown, and Judkins, who did not even sign the returns from his inability to answer to a large number of names on the list, can not be credited as to the number of votes actually taken. An additional circumstance requiring this conclusion is the fact that nearly 40 names are on the poll list which are not on the registration list, and it was not intimated or shown, if any of these persons did reside in the county, that they did not reside in the county when the registration closed.

COTTON VALLEY PRECINCT, NO. 5, MACON COUNTY.

The inspectors reported 237 votes cast in this precinct—all for Mr. Cobb, contestee.

The evidence proves that the contestant, Mr. Goodwyn, had no representative in the board of inspectors and clerks in this precinct. He was informed that he was to have none, and the contestee, Mr. Cobb, objected to the request to give him representation, at the meeting which has been mentioned.

In September, 1894, a written correspondence was had between Mr. Goodwyn, the contestant, and Mr. Cobb, the contestee, requesting the latter to join the contestant in petitioning the appointing board for equal representation to both parties in all the election boards, which the contestee, Mr. Cobb, declined to agree to.

It had been reported that the contestee was to derive his majority in part from this precinct by means of fraudulent votes, and these facts surely indicate the truth of the information; but the evidence does not connect the contestee personally with any fraud. The contestant also applied to Judge Hurt for copies of the registration and poll lists. He also requested permission to see the lists; also for permission to copy them; each of which requests was then refused. But the contestant did finally secure copies of the registration and poll lists. The registration list so furnished stated that there were about 250 voters registered in this beat, while the registrar's book showed no more than 30. And the certificate of the registrar is to that effect only. How the additional names came to be placed on the list was not explained. It is certain that there could not have been so many persons attaining the age of 21 years between May 26 and November 6 in the precinct. One hundred and twenty-six of the additional names are stated by the contestant in his evidence to be in the same handwriting. Neither page was certified or signed, and 94 names were on another sheet, neither certified nor signed, and 32 entered in pencil.

The evidence of the witness, McDuffee, confirmed these statements, for he testified that the book was produced before the officer taking the evidence in the present contest, and that the names for this precinct followed consecutively along to 156, but there was no certificate that they had been registered, except as to the first 30 on the last page. There were 2 names of the first 56 on one page. That and the next page were in blank after the 2 names. Then names commenced again on the third page and ran consecutively from 155 to 249. A request was made of Judge Hurt for a copy of these pages, which he refused.

An inspector (Menefee) testified that he did not think there were as many as 100 persons voted at the precinct. He was afterwards examined on the part of the contestee, Mr. Cobb, and testified that he had been offered money by the contestant to swear that no more than 30 or 40 persons voted at Cotton Valley; and he further testified that there were 237 votes voted for the contestee, Mr. Cobb. It is manifest that but little, if any, reliance can be placed on this witness, by reason of the discrepancy in his statements made on each of his examinations.

Thirty-six persons whose names are on the poll list, which contains 237 names, swore that they did not vote at the November election in 1894, and knew of no other persons in the precinct having the same names. Seventy-two persons also made affidavits that they did not vote at this precinct at the November election, although their names are on the poll list; and these affidavits were without objection received by the notary. But it does not affirmatively appear that the contestee was represented when the affidavits were received. He did not, however, if he was not then present, ask when he was that they should be stricken out. But aside from them the evidence otherwise given is sufficient to characterize the return for this precinct as false and fraudulent, and no means have been supplied for ascertaining the legal votes of the precinct. Accordingly, there seems to be no other rational alternative than to reject the return altogether.

TUSKEGEE PRECINCT, NO. 1, MACON COUNTY.

The inspectors returned 426 votes for the contestee, Mr. Cobb, and 9 for the contestant, Mr. Goodwyn.

The same evidence was given as in the other two precincts of the effort to secure representation on the election board for the contestant, and the refusal of the contestee to consent to it. The same report existed as to the intention to count a majority in this precinct for the contestee. And what were represented by Judge Hurt as copies of the registration and poll lists were finally furnished by him to the contestant, Mr. Goodwyn. Two hundred and twenty-four votes are stated in the poll lists of the two boxes of this precinct to have been given by colored voters, while their leaders advised them not to register or vote in the black counties, of which Macon was one, fearing that their votes would not be counted as given, and they generally abstained from registering or voting.

The evidence of B. W. Walker, who was elected to the legislature of the State of Alabama as an Independent, and was at one time a deputy marshal, was to the effect that he was informed, as the fact turned out to be, that the contestant should have no representation on the election board of Tuskegee and the other two precincts already considered in Macon County; that they were the black precincts of the county; but in the other seven precincts the contestant should be represented, they being considered white precincts. And as to these seven no contest or controversy has arisen. This witness testified that the polls were in the court-house for Tuskegee precinct, and were supplied with two boxes; that the court-house was on an open piece of ground of about 4 acres, with an iron picket fence around the court-house. A diagram was made of it, which has been made a part of the record. The witness testified further that Mr. Grimmet and he were stationed there outside of the fence, where they could see the persons entering through the

opening left for the passage of voters, made by a rope drawn around in front of the court-house, and had also a view of the rear door of the court-house. And he testified that they were there through the day, and no more than 50 colored persons were in the court-house square that day, and only 42 voted there that day.

Grimmet testified that he watched all day, and there were 42 colored voters went into the voting place that day. And the position occupied by these two persons, marked on the diagram, was in plain view of the passageway through the rope inclosure in front of the court-house, and also of the rear door of the court-house. There was another door to the court-house, but it did not appear that any persons entered that way; and the front inclosure by the rope was made with the passage opening in it for the persons approaching to enter the court-house that way. The contestee is mistaken in the statement that this evidence of Walker is in rebuttal. It was evidence in chief, taken in February, 1895. He was afterwards recalled and examined in rebuttal, but that part of his testimony adds no substantial weight to his testimony already referred to. It is further objected that both Walker and Grimmet are not worthy of credit, but nothing appeared having the effect of discrediting either of them.

The witness Thompson swore that there were three openings in the rope, and the rope was stretched into the hallway, and the voters had to pass through the door in the northern portion of the hallway; that there was an opening in the eastern portion and one in the southwestern portion of the court-house through which voters could pass in going to the polls, and a person sitting in front of Russell's livery stable could see both openings. This witness was the sheriff, and stated that part of the day he was acting as sheriff and part of the time swapping horses. He also stated that he appointed Republicans on the election board of this and the other two precincts, but they were evidently not such as the contestant or his friends approved. About 30 persons are stated on the poll list to have voted in this precinct who were not registered; 34 persons are reported to have voted whose names follow each other alphabetically; 29 whose names are on the poll list testified that they did not vote, and 12 others made affidavits that they did not vote. Like the other two precincts, no reliance can be placed on the returns, and they should be rejected. And there is no evidence whatever showing what legal votes were given at this precinct.

BENTON, NO. 1, LOWNDES COUNTY.

This precinct returned 311 votes for the contestee, Mr. Cobb; none for Mr. Goodwyn.

A. J. Wood, a merchant who had resided in the precinct five years, and knew a majority of the people there, testified that he noticed and estimated the number of voters in town on the day of election. In his judgment there were less than 50, and 25 or 30 voted. There were about 200 colored and 25 or 30 white voters in the precinct.

Ed Freeman stated that he stood where he could see the polling place and watched to see how many colored men voted, and added: "I didn't see airy one vote." The registration list was proven by Mr. Traylor, A. J. Wood, E. T. Robinson, Lee Barlow, and Ed Hayden, who were each well acquainted with the people of the precinct, to contain over 100 names of persons not residents of the precinct, many of whom are named in the poll list as having voted at the election. Other persons, registered as having voted, testified that they did not vote and to the other names being those of dead persons, and the poll list contains 311 names. The utmost latitude of the evidence does not warrant the belief that over 25 persons, all being white, voted at this precinct. And assuming there were that many who voted for the contestee, there requires to be deducted from the vote returned for him in the Benton precinct 286 votes.

CHURCH HILL, NO. 2, LOWNDES COUNTY.

Vote returned: 278 for Cobb and 2 for Goodwyn.

The testimony of James Bryant, assistant registrar, is that he registered only 42 persons, and that is the statement of his certificate to the two lists. He says that the copy produced by him is a correct copy of the registration lists he filed. His certificate is dated May 26, 1894; after that and by the day of election the number was increased to 233. Scott Maull, who had been election clerk twice and was church clerk in the Baptist Church where the colored people generally attended, swore he knew the people who resided in the precinct, and he answered, in detail, that there were about 70 persons on the list that he did not know. Charles Heabowskie gave similar evidence, to the extent of 50 persons named on the registration list. And it was proved that the names of dead and of persons not residing in the precinct were on the list.

This evidence is consistent with no other supposition than that these false registrations were made with the expectation of adding fraudulent votes to those which might be lawfully given at the election. And that is confirmed by the fact proven that the colored voters, on the advice of their leaders, abstained from registering, and also from voting. The witness Charles Heabowskie also testified that there were generally from 14 to 16 white Democratic voters in this beat, and the total voters about 170. Scott Maull put the white and colored voters of the precinct at between 175 and 180. W. E. Mealing put the number of voters in the precinct, as he supposes, at about 180. Pierce reckoned there ought to be about 250 voters there. The evidence of neither of these persons was seriously brought in question, and it must be assumed, as they were credible persons, and their evidence is inconsistent with the vote returned for this precinct, that the number returned was largely fraudulent. No witness put the white Democratic vote higher than from 14 to 16, and allowing they all voted for the contestee, his returned vote must be reduced by deducting from it 262.

GORDONVILLE, NO. 4, LOWNDES COUNTY.

The vote returned for this precinct was 172—for Cobb, 170; for Goodwyn, 2.

The poll list, as certified by the probate judge, had 170 names; 33 persons named on the poll list swear that they did not vote, and a few others were out of the precinct. The vote is overstated by at least 35, and that number should be deducted from the 172 returned, leaving 137 as the extreme vote given in this precinct for the contestee, Mr. Cobb.

HAYNEVILLE, NO. 14, LOWNDES COUNTY.

The certified copy of the poll list for this precinct contains 611 names, all of which are returned for the contestee, Mr. Cobb, while the original registration list has on it 501 names, and the supplemental list 118. Martin Smith, Peter Frayzer, J. M. Salley, W. T. Brightman, W. E. Carson, L. R. Brightman, and John W. Jones are persons acquainted with the residents of this precinct, and each testified, with the exception of not exceeding 3 or 4, he knew none of the persons of 118 names on the supplemental poll list; and J. M. Williams, a Democratic constable, could find none of them to serve his subpœna upon; and the poll list of 611 votes necessarily included very nearly all of these fraudulent names. It was also proved that some of the persons named were dead or did not reside in this precinct, and about 40 persons on the registration and poll lists did not vote.

H. M. Caffey, an inspector, was asked whether he would swear that each person on the poll list voted, and he answered, "I am not personally acquainted with more than about one-tenth of the names, and will therefore subscribe to no such oath." And Sam Williams swore that there were 500 or 600 persons about the polls, but he gives no estimate of the vote. This precinct is proved to have been badly tainted, both in the registrations and poll list. No evidence was given to show the number of legal votes given, and it would be merely guessing to try to estimate them. It is apparent that the lists of registration and voting are fraudulent. The returns are false and unreliable, and no other alternative is presented than to exclude the entire vote.

LOWNDESBORO, LOWNDES COUNTY.

Beat No. 18 returns 526 votes—all for the contestee, Mr. Cobb.

The registration and poll lists are brought in question as affected by fraud in this precinct.

A. C. McRee was the registrar. He testified that he thought there were about 151 voters registered in May, and he did not recollect registering any voters after May and sending the list to Hayneville as a supplementary list. He is a Democrat. His recollection is supported by the registration list, which is certified by the registrar and contains no more than 151 names. This list was afterwards extended to 214 voters' names—63 more than the registrar registered. Then there is added a supplemental list of 322 names, making 536 in all. By the laws of the State of Alabama this supplementary list can only consist of the names of persons attaining the age of 21 years between the close of the registration day in May and the day of the election; and by the constitution those who have been residents in the county three months have the right to vote. To render the supplemental list lawful, 322 voters must have become residents of the precinct or attained 21 years of age, or both, during this intermediate period, a fact which is utterly incredible. There were added to the original list 63 names without authority, and this supplemental list was fabricated to the extent of 322 names.

J. T. Dickson was shown this supplemental list. He was a merchant having a general acquaintance in the precinct, and testified that he did not know to exceed 4 names on the list, and they were of persons over 21 years of age before the day for completing the registration. And he reckons there were about 300 voters in the precinct, including, of course, white and colored. The poll list is certified by the probate judge to be a true and correct copy of the poll list filed in his office, and that it contains the names of 526 persons as voters. According to this list every person named on the registration list, except 10, voted, and all for the contestee, Mr. Cobb—certainly not a statement to be believed.

J. A. Reese, a Democrat, was clerk of the election. He testified that he turned over his poll list to the inspectors after the polls were closed, and then he thought there were between 100 and 125 names on the list, and that included names added from registration certificates brought in by Manager Dickson. C. E. Reese, also a Democrat, testified that R. S. Dickson, a manager of the election, told him that there were not exceeding 80 votes cast at the election. He added further that there were not exceeding 60 white voters in the beat, and they claimed to be Democrats; and he thinks 1 colored person voted for Cobb. Seven persons whose names are on the poll list testified that they did not vote. And Democrats testified that there were but few men at the polls during the day. This precinct is certainly deeply stained by fraud, and in no event can more than 81 votes be given to the contestee here, making a deduction from the vote returned for him of 446 votes.

ST. CLAIR BEAT, NO. 19, LOWNDES COUNTY.

This beat returned 86 votes—all for contestee, Mr. Cobb.

J. T. Dickson was in his store all the day of election, about 75 yards from the place in which the election was held. He testifies that there were but few persons in St. Clair that day, and two of the managers told him about 4 o'clock that but 6 votes had been cast, and these two managers were Democrats. Two names were proven to be of persons who did not vote. It will be seen that the evidence is by no means decisive, and it will be safest to allow 84 of these votes to remain to the credit of the contestee, Mr. Cobb.

WHITE HALL BEAT, NO. 20, LOWNDES COUNTY.

This beat returned 209 votes—all for the contestee, Mr. Cobb.

W. A. De Bardelaben testified that he knew 90 per cent of the voters of this beat; that 6 persons reported as voting were then dead. He had been a collector of taxes. The managers of the election were part of the day attending to other business. About 225 to 250 men lived in the beat. Sixteen persons named on the poll list testified that they did not vote at this election. Alexander White testified that he had been postmaster there. He knew nearly all the voters in the beat, and that the 19 persons named to him did not live in the beat the last year referred to, which was the year of the election in question. And he was in great part corroborated in this by the witness, J. L. Long. He also swore that 8 persons whose names were on the poll list had been dead for more than a year; and his testimony was taken in February, 1895. He also stated that 64 were names on the poll list of men who never lived in the beat. The names of other persons on the list were also shown to be fictitious; and no proof of the polling of a legal vote has been given. It follows, therefore, that the return from this precinct should be wholly disregarded.

STATESVILLE PRECINCT, NO. 12, AUTAUGA COUNTY.

In this precinct 71 votes were returned—all of them for the contestee, Mr. Cobb.

The conduct of the election officers was shown to be riotous, threatening, and disorderly. The witness, M. L. Prather, testified that he was in full view of the polling place during the entire day, and to the best of his count 28 men were on the ground; that he was positive there were no more than 28, and 27 entered the polling place. An effort was made to impeach this witness by the witness J. B. Goldson; but he swore that Prather's character was good and he would believe him. Prather's evidence seems thoroughly reliable, and it requires the vote of the contestee to be reduced in this precinct to 27, making a deduction from the returned vote of 44. The fact that the contestant was allowed no representative in this precinct is a further fact warranting this result.

As to these several precincts, it should be added that no evidence was given in any form justifying any different disposition of their votes than has been above mentioned.

DAY'S BEAT, NO. 5, AUTAUGA COUNTY.

This beat returned 50 votes for the contestee, Mr. Cobb.

The contestant had no representative in the election board of this precinct, and the proceedings were disorderly in the extreme. But these facts alone will not justify a reduction in the vote, although there is a probability that it was not genuine.

Allowing the contestee, Mr. Cobb, every possible item of proof does not change the results already noted. The presumption in favor of the official acts of the public officers whose conduct has become involved in this contest has been completely extinguished by the evidence establishing their frauds; and it is very clear that their attempt to disprove their guilt would have been fruitless. With so many stubborn facts against them their denials or explanations would be acceptable to no one beyond their own confederates. It is quite evident that more proof beyond that which was given could be secured against them. The nature of the case is such that a general knowledge of the population of the locality compared with the registration and poll lists must disclose the presence of fraud whenever it exists.

The effort to deprive the people of the result of the expression of their will at the ballot box whenever these avenues of proof are carefully followed can always be defeated. And it is fortunate for the cause of free government that the presence of these and other prominent facts which may be accessible will not fail to vindicate the right of the people to legal and honest representation. Their will is sovereign, and whoever they select and whatever may be his pronounced sentiments, he is their representative, and his right can not be denied because of political differences. In these precincts there was a deliberate purpose to defeat the real design of the people. It was not the case as to a few persons, but all who endeavored to exercise control were implicated in the common design; and other public officers whose concurrence was necessary for success were confederated with the election officers in the devices they instituted and endeavored to carry out.

The reductions in the vote returned for the contestee, Mr. Cobb, aggregate 2,866, obliterating completely his stated majority of 508 votes. They do not, however, increase the contestant's majority. The election officers were careful not to allow him any special advantage in the way of votes, by reserving their favors wholly for the contestee. But he can very well stand, as he is entitled to do, on the greater part of the majority secured to him in the other counties of the district and the precincts not contested in these contested counties. His vote will then be 2,360 over that of the contestee.

There is but one mode, therefore, in which this House can maintain what appears to be the right, and that is to unseat Mr. Cobb and to seat the contestant, Mr. Goodwyn. To that end we recommend the adoption of the following resolutions:

"*Resolved*, That James E. Cobb was not elected a member of the Fifty-fourth Congress as a Representative of the Fifth Congressional district of the State of Alabama at the election held in said district on the 6th day of November, 1894, and is not entitled to the seat in the Fifty-fourth Congress as such Representative.

"*Resolved*, That Albert T. Goodwyn was elected a member of the Fifty-fourth Congress as the Representative of the Fifth Congressional district of the State of Alabama at the election held in said district on the 6th day of November, 1894, and is entitled to the seat in the Fifty-fourth Congress as such Representative."

CHAS. DANIELS, *Chairman.*
L. W. ROYSE.
FRED C. LEONARD.
E. D. COOKE.
R. Z. LINNEY.
W. H. MOODY.

Mr. COBB of Alabama. Mr. Speaker, I hope to have the ear of the House, and particularly of gentlemen on the majority side of this Chamber, while I attempt to make a fair and concise statement of the side of the contestee in this case. I am aware that, taking this case as contested elections generally go, but little hope exists that there will be in this House a reversal of the action of the majority of the Committee on Elections. And if it were a matter affecting myself alone, a mere matter of personal concern, I do not think I would feel at all inclined to enter into this argument to-day. But the action of this House, if it should unseat me, has a more far-reaching effect than any consequences that it may bring to myself individually. It will be a declaration on the part of this body that gentlemen whom I know and honor, gentlemen whom I esteem as men of integrity and character, have committed fraud in the discharge of their official duty. It is also a declaration that the people of the Fifth Congressional district of the State of Alabama shall be represented on the floor of this House by one who, in my opinion, is not of their choice.

I shall be necessarily brief and unable to examine the case in all of its details. I must content myself with mere suggestions, trusting that the gentlemen who do me the honor to listen to what I will say will take these suggestions and draw from them the deductions to which they legitimately and logically lead. My belief about this case is that the question of fraud, which has been raised and urged here with such persistency, would never have been raised at all if the case had been properly examined and treated. My own views are that in the trial of an election case the same rules should prevail that obtain in courts of justice. We are in the search of truth, and the rules established by law and governing all judicial tribunals in their efforts for the ascertainment of the truth have been so long and so well recognized that it has become axiomatic that there can be no proper ascertainment of that which is true on an issue made—that there can be no reliable elimination of the true from the false—except by an unvarying adherence to those rules which have received the sanction of mankind for hundreds of years.

And so, Mr. Speaker, I understood at the last session of the last Congress that that was to be certainly the manner of the procedure of this House in the trial of the contested election cases which would be brought before it. It was openly declared everywhere that this Congress would make precedents in these cases which no man could assail, and which would bring honor upon those who made them. The belief engendered by these declarations—for I gave to the gentlemen who made them my confidence in their sincerity—governed and determined me largely in my course in taking the evidence that you now find embodied in the record in this case. But to this point further on.

Any lawyer who will take the record and calmly consider and intelligently analyze it, putting aside for the time being his partisan bias and partisan prejudices, can come to but one conclusion, in my opinion, and that is that if there was eliminated from the record all the testimony which would be rejected by any court in this country the contestant has absolutely no case. And therefore I abstained from making any extensive attack against contestant in the counties where I was advised that frauds had been committed against me.

Now, what is the foundation for the assertion that contestant had made no case at the expiration of the time allowed to him to take evidence in chief?

When the contestant closed his case he had not introduced a single particle of evidence to show the vote of the whole district—not a particle. Forty days were consumed by him with diligent effort to fill the record with evidence which he conceived would benefit him without regard to its relevancy, and yet he abstained from inserting a word which even tended to show the vote of the district. Therefore, Mr. Speaker, no matter what amount of proof there might have been tending to show fraud in the three counties attacked by him, it could not be made to appear that that fraud affected in his favor the vote of the district. But that is said to be "technical" by gentlemen on the other side. That, Mr. Speaker, is the cry of every man who finds himself hard pressed in a matter undergoing judicial investigation. Technical, indeed! It is a rule of law, it is a rule of universal application, it is a rule that is recognized everywhere, in every court throughout the land, that those things which are matters of primary evidence, evidence in chief, shall be given in at a proper time, so that the opposing party may have an opportunity to meet and disprove them.

Now, when the time of the contestee had expired, when no opportunity was thereafter to be offered to him to put in a single particle of evidence, then for the first time the contestant introduced the evidence as to the vote of the district. And what kind of evidence was it? It was wholly illegal, because it was hearsay. The contestant put himself on the stand and swore positively that the vote of every county in the district was the figures he gave, without so much as deigning to tell the source from which he obtained his information. He also inserted a statement, made without authority of law, by the secretary of state of Alabama. This was the evidence on which he relied. It was so illegal in character, so defective in every respect, that the Committee on Elections would not rely on it, but announced to the contestant that he must amend his case in this particular by producing other and better evidence. This course of the committee was not only unfair, but, in my view, it was illegal.

The true rule, as stated by McCrary and sustained by every precedent worthy to be followed, is not to allow the introduction of evidence, whether it be record evidence or not, unless it is put in before the commissioner, so that the other contending party may have an opportunity to see its effect upon his case and govern himself accordingly.

Now, what was the result? They sent down to the secretary of state——

Mr. TURNER of Georgia. Does the gentleman from Alabama mean that this foundation of the contest was supplied by testimony taken at the instance of the contestant after the time for taking testimony had expired?

Mr. COBB of Alabama. Yes; it was so done. I do not know whether it was at the instance of the contestant or at the instance of the committee, but the committee advised me and the contestant that the contestant would be compelled to supply this testimony and that they would give him an opportunity to do it.

Mr. TURNER of Georgia. And were you permitted to reply to it?

Mr. COBB of Alabama. Not a bit of it. I said to the committee, "Gentleman, this is all wrong. You have no right to do this. It is a right and power belonging to the House alone, and not to the committee, and if you propose to amend the record, I demand as a matter of right and justice that you go before the House of Representatives with a suggestion that this testimony is needed, that I may have an opportunity of being heard before the House, so that I may show to them the effect of this course upon my claim to this seat in cutting me off from testimony that I know I can produce in answer to this very testimony that you propose to bring here."

They refused it. They could not trust this House, with its overwhelming Republican majority, to deal with a question like that. Thus I was deprived of the right of a hearing before the only body having the right to hear.

Now, what was the result? Here is a paper I hold in my hand, one of those that the contestant obtained from the secretary of state at the instance of the committee. It purports to be a copy of the returns from the county of Elmore, his own county, which shows upon its face that under the law of Alabama it was so defective that it ought to have been excluded. I have not the time to dwell here, but the law of Alabama requires that these certificates shall be signed by the judge of probate, the sheriff, and the clerk. It provides that when the judge of probate and the clerk are absent, their places may be supplied, but not so with the sheriff. Why? Because there are no contingencies that would prevent him from being present either personally or by deputy. He may have deputies to an unlimited number.

Now, this paper is signed alone by the judge of probate and by J. J. Pierce, representing the circuit clerk. Neither the name of the circuit clerk nor the name of the sheriff appears upon it, and

if the attention of the State board had been called to that fact they would have excluded it. But nobody is called before the State board or notified of the time of their meeting. They have a certain number of days in which they may count these returns, and as a rule they meet at their convenience within the time named and accept the county returns without strict scrutiny.

Now, what would have been the result if attention had been called to the defect in the return from Elmore County? One thousand additional votes added to my majority! But the defect which makes the paper illegal appears on its face, and hence the committee should have excluded the vote of that county.

Another rule of law which was violated was in the receiving of hearsay testimony. Why, it is all through the record. But before I pass from the matter of the introduction of evidence in chief in rebuttal I want to show you what reason is given in this majority report for such course:

> Evidence was taken which the contestee urges was not within the scope of a proper rebuttal; but it was mainly to prove that persons did not vote whose names were on the poll lists. Similar proof had been previously taken, and there can be no reason for supposing that the contestee, Mr. Cobb, was specially prejudiced by the order of this evidence; for it seems to have been beyond his power of contradiction.

A judge on the bench, hearing a contest to be decided judicially, tells one of the parties "I will depart from the rule of law in favor of your opponent, and I do it because I assume to determine that the evidence which is about to be offered is such evidence that you can not meet it." Who ever heard of such reasoning from a judge? When I stand before a court I have the right of an opportunity at least to produce evidence to contradict that of my opponent, and until I have that opportunity granted there is no man who has the right to say the evidence of my adversary is beyond my power of contradiction.

And yet such is the deliverance of the judicial tribunal in whose hands was committed the pending contest.

That is not all. It is not true that this evidence was mainly to prove that men did not vote whose names were on the poll list. But suppose it had been. That was one of the main points in this case. This whole case turned on the charge that men were counted as voting and their names made to appear on the polling lists when, as a matter of fact, they never cast a ballot. Now, then, Mr. Speaker, you are the plaintiff in a court of justice. The issue is made. You put up one witness to make out your case, then you close, and the defendant puts up his witness, and then you come back with a dozen, fifteen, or twenty witnesses to sustain your first witness on the pretense of legitimate rebuttal. Such is not the course sanctioned by the decisions of high judicial tribunals.

Gentlemen, do you wish to be fair? Do you intend to be fair? Do you intend to redeem the pledge you made that you would establish sound precedents in the contest cases before this Congress? Will you do it? Is it not far better that you should do this than that one man or another man should occupy one of the seats in this House?

But, as I said, that was not all of this pretended rebuttal evidence. It covered every phase of contestant's case. In it appeared for the first time any pretense of evidence of the vote of the district, without which evidence the contestant could not possibly succeed, as I have shown. I was thus denied the opportunity to meet this evidence and disprove it. More than a score of witnesses were allowed to give evidence in chief in rebuttal, including those on whom the committee seem mainly to have relied.

But I must hasten. It contained all the evidence that has been insisted on here, and repeated over and over again about my refusal to join contestant in a petition, and about certain pretended resolutions passed by citizens of Macon County. I was given no opportunity to contradict these statements, which distorted the true facts. I will say in passing that my friend in his opening speech said something to the effect that I refused to have a fair count. I never made such refusal, nor did I ever say or write one word to that effect.

I have not time to read the correspondence, but the letter addressed to me by contestant was not a letter petitioning for a fair count. It was a letter in which he proposed that we should ask judicial officers to abrogate their power under the law and delegate that power to committees, political committees, to do that which the law itself imposed on its sworn officers.

Mr. McMILLIN. And which they could not transfer.

Mr. COBB of Alabama. And which they could not transfer without making themselves liable; and it would have been an insult to ask them to do it.

Why, sir, I come to you as a judge, and say: "I am afraid of you; you have too much power; turn it over to my friend here, I can trust him, and I ask you to take his statement as the fixed and conclusive determination of your official conduct." That is a true statement of the case. It is quite different from mere advice. But on every stump and everywhere I stated, without hesitation, that I was in favor in that election, as I had been in other elections, of honest balloting. Mr. Walker so states, if I can turn to his testimony. Here it is. There had been an effort, as I thought, to draw from him some sort of an insinuation that I had been guilty of misconduct. I challenged him: "Do you mean to assert in any statement that you have made that I have been at any time, directly or indirectly, engaged in fraudulent practices?" He promptly and emphatically protested that he meant no such thing; and that I had been known in that county always, and was then known, to be in favor of fair elections, and stood with those who were advocating and urging them.

And what of the meeting of citizens on which so much stress is laid in the majority report?

It was a small gathering of about 35 voters, as stated by Walker. They had assembled to hear a joint discussion to be held under agreement between the opposing candidates, and for no other purpose. It was presided over by an extreme partisan friend of contestant. To this I had consented, for I was innocent of suspicion that any unfairness would be attempted. To my amazement, certain resolutions intended to secure improperly a partisan advantage to contestant were offered—not, however, in terms as stated by Walker and Smith, according to my recollection.

With indignation I denounced them. I said in substance: "We are not here for such purpose. We are friends of the opposing candidates met together to listen to a joint discussion to be had under terms of agreement between them, and an attempt to secure advantage to one of them by resolutions of this sort was never before heard of when honorable men were engaged in free and fair debate." I was indignant, as I had every right to be. But my surprise then is exceeded by my surprise now that a committee of this House should accept this occurrence as a reason on which to base their report. It is but an evidence of the weakness of the contestant's case.

I extract from Mr. Walker's testimony:

> Q. Do you not remember that my objection to the resolutions spoken of was to the breach of faith and unfairness in presenting them at a meeting of the friends of both parties called together to hear a joint discussion, the terms of which had been agreed upon between the candidates, and that I expressed surprise that they were offered?
>
> A. Yes, sir; I think that covers fully the substance of your remarks; I don't know that you expressed any other objection in your speeches, both at Cross Keys and Bentley, only you stated that to pass such resolutions might be a reflection on the officers who were to appoint the inspectors, and that you were not willing to do anything that would reflect on the officers; that they were honest officials and you had no reason to believe that they would not discharge their duty faithfully under their official oaths; that is in substance as what I understood was your objection to the resolutions.
>
> Q. Did I not say also that I had written a letter to Mr. Goodwyn in answer to me, addressed by him to me, in which I set forth my reasons for declining his proposition to petition the officers, and did I not then and there direct attention to the correspondence which Mr. Goodwyn had in his possession?
>
> A. I understood from your remarks that you charged directly that to attempt to pass these resolutions at that meeting was absolutely in bad faith in view of the agreement which you had had by a written correspondence, and in view of the fact that you had answered and given your reasons in a letter which had been published as to why you would not join in a petition to the officers.
>
> Q. I said in that connection, did I not, that I had always been and was then in favor of a fair and honest election and believed that we would have it?
>
> A. Yes; I understood you to make statements to that effect.

But, I repeat, what have these things to do with this case? Why are they brought in here? But I pass on.

Ex parte affidavits—why, gentlemen, I never dreamed for a moment that there could be gotten together in this House, or in any House, an elections committee that would receive ex parte affidavits as evidence. While the commissioner was taking testimony, or in the interval of the examinations, a friend of contestant, armed with affidavits all prepared for their signatures, was procuring ignorant negroes to sign them, and these are the proofs upon which the majority of this committee rely largely for the determination of this issue.

I have alluded to the secondary and hearsay evidence that is introduced in this record. Here is a sample. How is it ascertained that 240 votes should be deducted from the majority of contestee as the same appear from the returns made? There is not a scintilla of proof in the record to show errors in addition except that Mr. Goodwyn swears that he happened to be present in one county and heard the sheriff call out the vote, and it did not amount to the number that was afterwards certified to by the three election officers, and that McDuffey told him that Judge Caffee told McDuffey that there was an error in the count in Lowndes County. This is the evidence, not only on which the majority of the committee rely, but on which they state that it is apparent there was a mistake. The contestant introduced first the statement of the judge of probate as to what the vote of Lowndes County was, and that certified return gives me a majority of 748 votes, and if the gentleman on the other side can find any mistake in the addition he will do more than I have been able to do.

I will not dwell here longer. Time presses. I will briefly allude to the question of the introduction of the copies of registration lists. These were introduced without other proof of genuineness than the certificates attached to them.

The law on this subject is this: No paper writing, at least below the dignity of a solemn record, can be introduced into a court of justice on the certificate of an officer, unless there exists a statute authorizing that sort of paper, thus certified, to be received as evidence. That is the law.

Now, in the first place, there is not one single registration list in this record, not one, that has the certificate which the law requires to make it evidence by certification, if indeed there was such a law; but, secondly, there is no such law. It is like the plea, "I am not guilty if I was there, but I was not there." There is no proper certificate even if there was any law, but there is no law. But, Mr. Speaker, it makes no difference about the introduction of these registration lists by certificates, because the legislative enactment providing for registration existing in Alabama at the late election is utterly null and void by reason of its unconstitutionality. Why is it unconstitutional? The gentleman who drew the majority report does not meet this question fairly.

The purport of the report on this point is that even if the law is unconstitutional it does not make any difference to the contestee, because he has not shown that he suffered by it. As if a constitutional law had any validity whether anybody suffered from it or not! The rule of law is that the moment a law comes before the court for construction and the court denounces it as unconstitutional, that law is null and void as to everybody and for all purposes. The supreme court of Indiana has decided the question involved here; the supreme court of Pennsylvania has decided it; the supreme court of North Carolina has decided the identical question. The legislature of Alabama, in the effort to enact a law that would make futile any attempt to commit fraud in elections, made its provisions too stringent. It enacted that the registration should be had in May, closing in that month; that thereafter no one should register except those coming of age after that date and before the day of election, and that no one should vote unless registered. Thus it was that many men fully qualified by the constitution of the State to vote, but who failed to register without fault of their own, were denied the right of suffrage.

This point was raised in the decisions to which I have referred, and the courts held without hesitation that such a law was null and void. Now what effect does this consideration have in this case? It is a question as to the admission of evidence.

Copies of registration lists made under and by virtue of a void enactment were introduced by certification only. But certainly no lawyer will contend for a moment that a list could be made evidence by certificates the preparation of which was authorized by no law. What would have been the result if these principles of law had been applied? Every registration list in this record would have been suppressed. What more? Every portion of the testimony of men who swore by looking upon an unconstitutionally admitted registration list would also have gone out. Take all these things out of the evidence; take out the illegal testimony; take out the testimony clearly hearsay and secondary; take out the testimony which was admitted against me in rebuttal, which was evidence in chief, and confessedly there is no case here. Gentlemen admit it. But they seek to avoid the force of what they can not answer by the weak and specious plea that these things are "technical."

But I hasten on. I have many points which I am forced from the want of time to omit. The majority of the committee have stated in their report what votes they exclude and upon what grounds. And this case is practically tried on that report. But the report does not say one word about the many witnesses that I examined contradicting the witnesses of the contestant at every step. It has been stated that I could not meet this case as made out against me; yet staring in the face the gentlemen who made such a claim was the testimony of the numerous witnesses who one after another swore that the testimony introduced by the contestant was utterly and entirely untrue. But the majority of the committee reject all this without so much as an allusion to it.

Now let us go on a little further. The effort is made to make this House believe that if I was elected it was by negro votes, the votes in the "black counties." The contestant comes down, so he claims, to what he is pleased to term the border of the black counties, with a large vote in his favor; and he wants you gentlemen to believe that it is a vote of white men.

The SPEAKER pro tempore (Mr. BARRETT). The time of the gentleman from Alabama has expired.

Mr. BARTLETT of Georgia. Mr. Speaker, I do not understand that any time was fixed.

The SPEAKER pro tempore. The gentleman from New York [Mr. DANIELS] is recognized.

Mr. COBB of Alabama. A question of privilege.

The SPEAKER pro tempore. Does the gentleman from New York yield?

Mr. BAILEY. He must yield for a question of privilege.

Mr. MCMILLIN. I rise to a parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from New York yield, and to which gentleman does he yield?

Mr. DANIELS. I yield for an inquiry.

Mr. BAILEY. I insist that we are not dependent upon anybody's courtesy for the right to make a parliamentary inquiry.

The SPEAKER pro tempore. To which gentleman does the gentleman from New York yield?

Mr. MCMILLIN. I do not ask to be recognized, except for a parliamentary inquiry, which is addressed to the Chair and nobody else.

The SPEAKER pro tempore. The Chair has asked the gentleman from New York whether he yields, and to whom he desires to yield.

Mr. BAILEY. No gentleman on either side asks the gentleman from New York to yield.

The SPEAKER pro tempore. The Chair will ask the gentleman from Texas not to speak on the floor until he is recognized by the Chair.

Mr. BAILEY. I rise to a parliamentary inquiry, and I have a right to address it to the Chair.

The SPEAKER pro tempore. The gentleman will be seated.

Mr. BAILEY. If anybody were in the chair having sufficient knowledge of the rules it would not be necessary to insist upon the right to make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will be seated. Does the gentleman from New York yield to any gentleman on the other side?

Mr. DANIELS. I yield to the gentleman from Alabama to make an inquiry.

Mr. COBB of Alabama. Mr. Speaker, there was no agreement——

Mr. COX. Mr. Speaker——

The SPEAKER pro tempore. The gentleman from New York has yielded to the gentleman from Alabama for the purpose of an inquiry, and the Chair recognizes him to make the inquiry.

Mr. COBB of Alabama. I want to state a fact. There was no agreement as to the time to be occupied in this discussion. I am certainly entitled to an hour, in the absence of any agreement, because I was recognized.

The SPEAKER pro tempore. The Chair was advised by the gentleman from New York that an agreement had been made to limit the debate to three hours—one hour and thirty minutes on each side.

Several MEMBERS. Oh, no.

Mr. COBB of Alabama. That proposition was not agreed to. I appeal to the Speaker of the House——

The SPEAKER pro tempore. The Chair, who was not in the House when the debate began, sent to the gentleman from New York, who has the matter in charge, to ascertain what the agreement was. The answer returned by the gentleman from New York was that an agreement was reached by which one hour and thirty minutes was to be consumed on each side. The Chair therefore allowed the gentleman from Alabama [Mr. COBB] to proceed for the thirteen minutes remaining of the hour of the gentleman from Georgia, and then allowed him thirty minutes additional, giving the gentleman from Alabama in all forty-three minutes, and thus completing the one hour and thirty minutes allowed on that side.

Mr. BARTLETT of Georgia. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman from New York [Mr. DANIELS] yield to the gentleman from Georgia?

Mr. DANIELS. Yes, sir.

Mr. BARTLETT of Georgia. The record will not show that there was any agreement as to the length of time to be occupied in this discussion. On the contrary, when the proposition was made that there be an hour and a half of debate on each side, and that at the conclusion of three hours the vote be taken, objection was made by myself, and then the gentleman from New York said that at the conclusion of three hours he would call the previous question.

That is all that has been done with reference to the matter, and the RECORD will bear out the statement of fact. There was no agreement whatever as to time.

[The Speaker here resumed the chair.]

The SPEAKER. The Speaker was in the chair at the time referred to, and inasmuch as there seems to be a misunderstanding, the gentleman from New York having given notice that he would call the previous question at the expiration of three hours, though, under the circumstances, of course, he would not have been able to take the floor for that purpose, and the temporary occupant of the chair, not being aware of the fact that this suggestion of the gentleman from New York was objected to, acted upon the assumption that it was an agreement as to the division of time. The matter has arisen entirely from a misunderstanding on the part of the temporary occupant of the chair, who merely carried out or attempted to carry out in good faith what he understood to be the agreement.

Mr. MCMILLIN. Mr. Speaker, I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. McMILLIN. My point of order is this: Under the statement that has been so clearly and correctly made by the Chair, that the gentleman from Alabama, being on the floor, was, under the invariable practice of the House, entitled to an hour, and could not have been taken off the floor by an interruption arising from a misapprehension.

The SPEAKER. The Chair thinks so. The Chair thinks there was a misunderstanding on the part of the gentleman from New York, which was communicated to the temporary occupant of the chair. The gentleman from Alabama will be entitled to go on, provided he desires to do so, in view of the notice of the gentleman from New York.

Mr. DANIELS. We shall claim the same extension of time.

Mr. BARTLETT of Georgia. Certainly.

The SPEAKER. That rests, of course, with the gentleman from New York as to when he will demand the previous question.

Mr. COBB of Alabama. Mr. Speaker, may I be permitted to ask how much time I will be entitled to?

The SPEAKER. The gentleman has thirty-three minutes, as the Chair is informed.

Mr. COBB of Alabama. Now, Mr. Speaker, when I was interrupted I was calling the attention of the House to the fact that the claim of the contestant is that he carried certain so-called white counties, and the gentlemen on the other side in drawing up his report say that certain of these counties were called black counties and others white. There is not a word of legal proof in the record about this, so far as I have been able to discover. But what are the facts? Here is the population of what the gentleman from New York calls the white counties, and here is the vote which the contestant received in those counties:

County.	White.	Colored.	County.	White.	Colored.
Chambers	12,460	13,858	Elmore	11,444	10,288
Coosa	10,552	5,354	Randolph	13,914	3,305
Clay	14,061	1,704	Tallapoosa	12,951	8,508

The majorities which the contestant claims it is shown that he received in these counties are as follows:

County.	Majority.	County.	Majority.
Chambers	538	Elmore	1,049
Coosa	400	Randolph	521
Clay	257	Tallapoosa	847

Thus it is shown, by comparing the colored vote in these counties and the majorities returned for the contestant in them, how absolutely unfounded his claim is that he had the support of the white voters in the so-called "white" counties. Take out the colored vote and it utterly annihilates the majority in every county and gives me an unquestionable majority. These are the figures. But I will not dwell on that.

We will come to the beats, and I will hasten over them. I will first ask your attention to Honeycut precinct, in Macon County. There is a good deal of testimony with reference to this point; and the report of the majority of the committee gives the names of the witnesses on whom they can mainly rely. They are J. D. Brooks, William Pierce, and Hilliard Judkin. Judkin was a Republican manager of the election, and swears with distinct emphasis that every vote that went into the box was cast by a legal voter, and that every vote that was counted out of the box went into it in a legal manner. He was a Republican manager, and his testimony appears in the records. J. D. Brooks was examined in the absence of the contestee and his attorneys, and therefore escaped cross-examination; but he says in response to inquiries:

Q. Are you acquainted with the names on the poll list of said beat from Nos. 58 to 104, both inclusive?
A. (Witness examines poll list.) I do not know any one of them.
Q. Do you know the voters on the poll list, Nos. 16, 17, 19, 55, and 56?
A. I don't know any such persons in this beat.

What list was shown him does not appear, nor does he swear that the persons named did not live in the precinct.

William Pierce was a man who was in the employment of the contestant. He was sent out around through the country, as they claim, to investigate and determine whether the parties, some of whose votes were questioned, lived in the precinct. He said that it was a very large precinct, and the weather was the worst he ever knew in Alabama, and he traveled on foot, and when he came to a colored man's house he would ask him if such and such persons, whose names he mentioned, were known. If he met a colored man in the road he would ask him whether he knew the names which his list contained, and if he got a response, "I don't know any such person," that testimony was accepted as conclusive. The cross-examination shows that he made no proper search for anybody.

Mr. COX. Why was he examined? What was he doing?

Mr. COBB of Alabama. Why, he was sent out to prove that certain men did not live there. That is the way they proposed to determine the fact that certain votes were illegal.

Now, Hilliard Judkin I have already referred to. He was, you will remember, the Republican manager. He says:

Q. Did you know all that came in there to vote?
A. I did not.
Q. Did you require the voters to surrender their registration certificates when they voted?
A. I did.
Q. Do you know of any Populites or Third Partyites in Honeycut beat?
A. No, sir; I don't know of any.
Q. Do you know any white Populites or Third Partyites?
A. I know of only one, Mr. Covington. I have never heard of any others.
Q. Was there anything said or done there to prevent anybody from voting who had a right to vote?
A. Nothing that I know of.
Q. Did you allow anybody to vote at that election who was not a registered and qualified voter?
A. No, sir; a certificate was demanded of everyone. Two or three asked if they could vote without being registered. Mr. Hagood told them no, unless they were registered.

At Cotton Valley precinct, Essex Menefee is the man whose evidence is relied on. Essex Menefee was twice on the stand. He was put on the stand once in the absence of the contestee, and when nobody was there to represent him. The counsel of the contestee was delayed by severe weather. When he got to the place of examination he found that a number of witnesses had been examined, among them Essex Menefee. He asked to see the examination. He was refused. He asked to see the list of witnesses examined. He was refused. He asked that they be called back to be cross-examined. That was refused.

Essex Menefee was made to swear that about 100 voters voted there. On this evidence the contestant claimed in his first brief that the whole vote at this precinct should be excluded. In his rebuttal brief the contestant called Essex Menefee an ignorant colored man. Attention was called to his evidence taken on a second examination when both parties to this contest were represented. Read his evidence and see what he says. He says that the contestant attempted to bribe him to swear that only thirty or forty votes were cast at Cotton Valley, and then took him before certain men. The contestant was on the stand after this testimony was given and did not contradict it, nor did he introduce any of the men who were there at the time. The majority of the committee reject this statement of Menefee, but are quite willing to rely on his first evidence to discard the whole vote of the precinct.

Essex Menefee swears that that poll was regular, and that the number of votes returned were actually cast.

Now, take Tuskegee precinct. They say that there are a number of votes here apparently cast in alphabetical order. Well, grant it. I do not pretend to explain anything that does not appear in the record; but this I say, that the most that can be said is that it is a suspicious circumstance. To impeach the integrity of the managers of election you must go further and produce something definite, and not something which merely makes you suspicious of wrongdoing. This can be accounted for. It could have been accounted for if attention had been properly called to it. I will not speculate as to the cause of this appearance of the poll list; but I know that in some precincts the poll lists were copied after they had been written down, and this is the proof as to one, at least, of the precincts of Lowndes. But be that as it may, Walker swears in effect that there were 200 votes polled at Tuskegee, and he is the contestant's own witness. Yet the committee do not give me credit for 200 votes, but throw out the whole poll. It is to be further remarked that the fact that this precinct contained 900 voters and the fact that the inspectors returned less than one-half of them are not consistent with the idea of deliberate fraud on the part of the inspectors.

It is admitted in the notice of contest that legal votes were polled there. No credit is given for that admission.

How much time have I remaining, Mr. Speaker?

The SPEAKER. The gentleman has twenty-three minutes.

Mr. COBB of Alabama. So it is with all these precincts that are excluded. It is admitted in the notice of contest that so many votes were cast for the contestee, and proved that there were so many votes cast for the contestee, and yet it is all ignored.

Now, let us take Hayneville. I want to call your attention particularly to that beat. It is a rule of law that whenever a man calls a witness to the stand he vouches for his integrity, and can not thereafter impeach his character for truth. But in order to discard a whole poll you have got to impeach the integrity of the managers.

Now, what about Hayneville? Two of the managers were called to the stand by the contestant and vouched for by him, and they were good reputable gentlemen, too. They testify that this election was all right; they say that every vote that was returned on the poll list represents a vote handed to them by a man who appeared to be a lawful voter, and nobody challenged him. I put the other manager upon the stand and he swore to the same thing, and, although the contestant was there with his attorney, he did

not ask that manager a single question by way of cross-examination. How is it attempted to be proven that there was any fraud here? By men who swear, some of them, that they did not vote. And if you would look at the cross-examination of witnesses had in this and other precincts in the district, you would hesitate, I apprehend, to unseat a member on their evidence.

"When was the election held?"

"I don't know, sir."

"Was it an August election?"

"I don't know."

"Was it in November?"

"Well, I can't tell."

"Do you know the obligation of an oath?"

"No; I don't know what that means."

"Do you know who is President of the United States?"

"I haven't caught on to that yet."

"Whom did you vote for for President last?"

"I voted for a man down in Eufaula, named Mahany."

"What did you vote for him for?"

"For President."

"What sort of a man was he?"

"He was a colored man—a yellow man."

Such are samples given from memory of the answers on cross-examination. But my friend, Mr. ROYSE, in his argument said that this sort of proof ought not to be admitted against the record. He alluded to the Davidson case and said that the committee properly ruled that they would not receive the evidence of men who swore that they voted; but that the record must be examined. And yet the committee allow this sort of testimony to which I allude to overturn the integrity of the official acts of sworn officers.

At Benton beat a witness named A. J. Wood, a colored man, is relied upon. Wood says he is a merchant there. He said he did not think there were more than a few votes there. I do not remember how many he gives, but less than were returned. Then he was asked on cross-examination where certain parties lived, and he replied that they lived in Dallas County.

"How do you know they live in Dallas County?"

"They pay taxes in Dallas County."

"How do you know they pay taxes in Dallas County?"

"Well, the tax collector says so, or the tax receipt shows it."

That is the kind of testimony on which I am to be unseated.

The main man who is relied on in Church Hill beat is asked to look upon a certain paper, and to state if it is a copy of a book. They tried to prove a copy by just handing him a paper; and he says, "So far as I recollect, it is a copy." Well, he is asked, "Who are you? What is your occupation?"

"Farming, working on sewing machines, clocks some; sometimes shoe work, sometimes politics, and sometimes mission work."

Lowndesboro precinct. It is said that there was not any registration list properly taken of the voters at this precinct. This is contradicted; but suppose there was not. I have already shown you that it is immaterial whether there was a registration or not. The majority report has a very singular way of dealing with this question of registration. It waives the decision on the constitutionality of the law because the contestee does not show that he was injured by the law, and yet when it is shown that 100 voters were thrown out at one precinct because those casting them did not appear to be registered, that action of the inspectors is upheld.

They say that J. T. Dickson swore there were only 300 voters in this precinct. His statement is: "I reckon there are 300 voters in the beat that I know."

Now, as to Whitehall. De Bardelaben was the man who was called to the stand to impeach the integrity of the action of his own brother, the manager there. He is a bitter partisan, and swears on cross-examination that he could not see the voting place from where his store was, and that he was in the store most of the day.

Autauga County precincts are attempted to be thrown out on the testimony of hired watchers, who were not only contradicted but directly impeached by reputable witnesses.

Mr. Speaker, there is not a particle of testimony here for the contestant that has not been contradicted by reputable witnesses, and, as I believe, entirely overturned. But at all events, if you will take the evidence and fairly and justly consider it, there is not a sufficiency in any precinct to overcome the integrity of the action of the managers. Now, that being the case, the burden of proof was upon the contestant to show that enough irregular and illegal votes were cast in order to overcome the majority appearing against him. This he has failed to do.

I wish now to glance—for my time is so nearly exhausted that it must be but a hasty glance—at the evidence tending to show misconduct on the part of friends of contestant.

I stated in the outset that when the time had expired in which the contestant could take evidence in chief he had failed to make out his case. For this reason I refrained from going into extensive examination of the election management in the counties which returned majorities for him. But I did take evidence touching several precincts of one county—the home county of the contestant—with the result, to put it mildly, of showing gross and willful irregularities, which, in the language of the supreme court of Kansas, "invite and conceal fraud." In these precincts there was scarcely the semblance of obedience of the registration law, and if this law is to be held valid as against me, it certainly should also be so held against contestant. In one precinct only one assistant was allowed, while the law provided for as many as needed, and this assistant, a Populist, marked the tickets of colored voters just as he pleased. The same course of appointing only one assistant was pursued at another precinct, in each instance the contestee being denied representation in this important office.

In yet another precinct the Populist assistant was heard to declare that he would mark the ballots of negroes to suit himself, and it was shown that he took officious control of this class of voters, making suggestions to them contrary to law and preparing their ballots without taking them to the booths. In these precincts the voters asking assistance were not sworn as to their ability to read, and registration certificates were not demanded from many of them. All this evidence was overlooked by the majority of the committee, and shows the management of the illiterate voters by the friends of the contestant having full control of the election machinery.

Mr. SWANSON. In how many counties did he have the election machinery?

Mr. COBB of Alabama. In six; and in every one of them the evidence points to the conclusion that I received the majority of the white vote.

Mr. SWANSON. In six of the counties he had the entire election machinery?

Mr. COBB of Alabama. Yes. And let it not be forgotten that there is no complaint that in the so-called black counties any colored voter was ever denied the right to vote or that his vote was manipulated at all. The complaint is that the colored voters remained away from the polls and that the inspectors made up a fictitious poll list. And yet it was proven, sometimes by witnesses for contestant, that the attendance of colored voters at the polling places was large, and that they were enthusiastic supporters of the contestee. So that while the charge of fraud against Democratic inspectors is repelled by counter proof, the disregard of law by Populist and Republican managers stands confessed by the failure of an attempt to disprove it.

I would that time had been allowed me to analyze and examine the evidence in this case more minutely, in justice to the people whose cause I defend to-day. But in obedience to the rules of the House I must yield the floor.

Now, gentlemen of the Republican party, justice to yourselves requires that if you believe there has been unfair treatment in the way of denial of opportunity to me to meet the evidence on which the opinion of the majority of the committee is based you ought in common fairness to give me that opportunity. At all events, you can not, without taking illegal testimony, come to the conclusion that the contestant is elected. You must put the law under your feet and refuse to consider any testimony of the contestee before you can cast your vote in favor of the resolutions here introduced by the majority.

I know the prejudice I have to meet. I know with what persistent assiduity you have been besieged with the cry of election frauds in Alabama; and I know, too, the methods resorted to to mislead and deceive you.

Who are the men who come here and make these charges and resort to these methods? How long have they been aroused to the conviction that there have been election frauds in Alabama, and that they are specially commissioned to correct them? Search their political records and find out how this sudden change of view on their part has come to pass, and what the evidences are upon which they traduce and slander the people among whom they are permitted to live. A slanderer of his own people—what is to be said of him? He is a fit agent to do the meanest work of the darkest fiend of hell.

There is not upon the face of this broad earth a people more to be trusted, a people who believe more in honor and truth and virtue and law, a people who are more sincerely attached to the principles of our Government, or who would do more and go further to maintain them, than the white people who live in this so-called black belt of Alabama. They are not to be impeached by these slanderous utterances of pretended patriots. The people of Alabama are an honorable, brave, truthful people, as true to this Government as any that live under it; and, furthermore, they are the best friends that the colored people have, and the colored people themselves have long since come to recognize that fact. They protect the negro and aid and encourage him to the attainment of a better living and a higher citizenship. Yet now it is proposed to disfranchise the people of a Congressional district upon such testimony as I have briefly and hurriedly outlined here to-day. If the die is cast, so be it. Deprive me of my seat if you will. It

is to me a matter of no great personal concern, and my earnestness of speech has been in behalf of the people I love, the people I respect, the people who, if you knew them well, would command your respect and high esteem. [Applause.]

Mr. DANIELS. Mr. Speaker, I shall spend but very little time upon the objections which have been urged so elaborately to the certificates that have been made and which appear in the record in this case. The registrar has certified in all instances to the correctness of the registry as it has been presented here. His certificate is in the case. The probate judge has certified to the correctness of the poll lists which are in the case. The secretary of state has certified to the correctness of the final canvass that was made by himself and the governor, for the purpose of determining who was elected in this district of Alabama, and——

Mr. HEPBURN. Will the gentleman permit a question?

Mr. DANIELS. Yes, sir.

Mr. HEPBURN. At what time in the conduct of this contest did these proofs appear in the case, in the testimony in chief or in rebuttal?

Mr. DANIELS. This certificate of the secretary of state concerning the election appeared in the course of the rebuttal evidence, and it is certified by the secretary of state, showing the canvass of the votes and the number of votes in the district for each candidate. We insist upon it that where papers of this description are introduced in evidence, it is a matter of no consequence where they are introduced as to the order of proof, because the certificate of the officer is of such a character that it is not in the least degree probable that any evidence could be given for the purpose of countervailing or contradicting it.

Mr. HEPBURN. Do you regard the presence of that proof as essential to the contestant's case?

Mr. DANIELS. I do not; for the reason that in the record in this case it is stated that the contestee, Mr. Cobb, is here on a majority of 700 and odd votes, and we have in the case over 2,000 votes against him upon a fair examination of the evidence contained in this record.

Mr. HEPBURN. I think the gentleman did not understand my question. What I want to get at is this: Was it essential to the contestant's case that he should establish the facts that were established by the certificate?

Mr. DANIELS. Only for the purpose of making the case more intelligible.

Mr. HEPBURN. Was it essential at all, in your opinion?

Mr. DANIELS. No; because we have in the record itself, in the biographical sketch which is contained in the record, a statement of the vote, or the majority, by which the contestee, Mr. Cobb, holds his seat in this House.

Mr. COBB of Alabama. Do you not know that I had nothing to do with that biographical sketch; at least with the matter in relation to the vote?

Mr. DANIELS. No; I do not know that.

Mr. COBB of Alabama. Was that matter in evidence before the committee?

Mr. DANIELS. It is not important whether it was before the committee or not. It is before the House, and it was brought up before the committee by way of suggestion, and the gentleman himself, Mr. Cobb, said that he did not furnish that statement. But is that to be believed? Will any member here believe that these statements are made up and put into the records of the House without any concurrence or knowledge on the part of the members whose records are affected?

Mr. COBB of Alabama. Well, I say that I had nothing on earth to do with it and never knew of it until I saw it published, and I say further that it is not true that these statements are obtained always from members. The Clerk gets them; I do not know where he gets them.

Mr. DANIELS. He gets them from the members. I appeal to gentlemen present to consult their own recollection as to whether these records are not made up in the way I have stated.

Mr. McMILLIN. Does the gentleman insist that even if this statement had been made out by the gentleman from Alabama [Mr. Cobb] and it had never been presented as evidence in this case, it would be a legitimate subject of consideration in the case here?

Mr. DANIELS. I do.

Mr. McMILLIN. Now, as a matter of fact, if the House will pardon me, I will state that I for one can say that I have never made out a statement of my own majority in fifteen years, and I guess that is the experience of other members.

Mr. DANIELS. Well, I can say that I have been required to make out mine. In reference to record evidence, no matter where it is to be brought in—and I desire to call attention, if any question deserving of consideration is to be raised on that subject, to a decision in Paine on Elections. It is there said that so far as documentary evidence is concerned it does not come within the limit of time prescribed by the act of Congress for taking the ordinary proofs; that the act applies only to oral evidence and such other testimony as may in the course of the investigation be brought before the notary. Now, upon this subject it was said in the case of Vallandigham *vs.* Campbell, 1 Bartlett, that—

> It was objected that the committee ought not to receive and consider the "abstract" of votes returned to the office of the secretary of state, because the document was not "obtained" or "taken" within the sixty days limited for "taking testimony." This objection, in the opinion of the undersigned, is destitute of force. Without deciding whether it was not rather the duty of the sitting member, than of the contestant, to produce it before the committee, they are clearly of the opinion that the negative provision, as to testimony, in the ninth section of the act of 1851, was intended to apply, and does apply, solely to the testimony of witnesses, or, at most, to such writing as can be proved only by the examination of witnesses; and that documentary evidence, at least that which proves itself, may be obtained at any time after the sixty days and produced before the committee at the hearing. The "abstract" in question purports to come from the proper office and officer, and bears upon it the impress of the great seal of the State, than which there can be no higher evidence of authenticity. In confirmation of this view the undersigned find that, in a majority of cases since the act of 1851, the abstract or copy of the returns has been "obtained or taken" subsequent to the sixty days limited in the act.

That seems to be a very decided authority in favor of producing this documentary evidence at any time, either before the committee or even afterwards before the House.

Mr. HEPBURN. Will the gentleman allow me to interrupt him?

Mr. DANIELS. Certainly.

Mr. HEPBURN. Does the gentleman regard what he has read as a proper commentary upon the provision of the present act that in the last ten days testimony in rebuttal only shall be received?

Mr. DANIELS. Yes, sir.

Mr. HEPBURN. The gentleman was reading a comment on the old act, the act of 1851?

Mr. DANIELS. Yes, sir.

Mr. HEPBURN. And that act is entirely different in its terms from the present law?

Mr. DANIELS. Oh, the act was substantially the same.

Mr. HEPBURN. Does the gentleman find in the old act the same language with regard to testimony in rebuttal only?

Mr. DANIELS. Yes, sir; substantially.

Now, in reference to this document of the secretary of state certifying when and how the final canvass of this election took place. It was brought before the notary upon the examination of a witness. In the course of his evidence this paper was produced; and it is stated in the record, "Contestant now offers in evidence paper marked Exhibit O." There was not the slightest objection of any kind or character then made to the introduction of that paper, and it was received in evidence.

Mr. COBB of Alabama. Will the gentleman allow me?

Mr. DANIELS. No, sir; wait a moment.

Mr. COBB of Alabama. At the beginning of that examination it was understood that there was to be no objection until the end.

Mr. BARTLETT of Georgia. It was so stated at the beginning.

Mr. COBB of Alabama. Yes, sir.

Mr. DANIELS. I will read the agreement to which the gentlemen refer, and the House will see whether it sustains the position they take:

> It is agreed here by and between the contestee and contestant, both present in person, that each and every legal objection and exception is now made and reserved to each and every question and the answer thereto hereinafter propounded and answered in all respects as if made severally to each and every question and answer, and this agreement is made for the purpose of saving time.

That is the agreement which was made before this paper was offered in evidence; and that agreement is expressly restricted to the questions put to the witnesses and the answers made by way of response to such inquiries. So that when this paper was offered in evidence there was no objection made to it whatever, and it was received by the notary as part of the proof of the case, as showing the state of things forming and attending the canvass.

Under these circumstances, and inasmuch as the manner in which these votes were canvassed and the result reached is thus proved by the certificate of the secretary of state, we have before us the proof prescribed by the laws of the State of Alabama, upon which this election was determined and the certificate issued to the contestee.

It was objected when this certificate was produced (and that was the only objection apparently which was in the mind of the contestee at that time) that the certificate did not conform to the requirements of the law. In the first place, he objected that the facts could not be proved by the certificate at all, being in effect the same objection which was made to the certificates made to the registration lists and the poll lists—that the certificates were not evidence because the secretary of state had not certified as fully as the gentleman on the other side desired him to certify as to the facts which had transpired in the canvass.

Upon the examination of this certificate, however, it was concluded by the committee that the certificate was sufficient. But

as a matter of precaution, for the purpose of avoiding the possibility of any mistake in that respect, Mr. Goodwyn was required to send back to the officer and produce a further certificate showing the basis upon which this final certificate was made.

Now, what does the secretary of state say? He says in his certificate:

STATE OF ALABAMA, *Office of Secretary of State:*

I, J. K. Jackson, secretary of state of the State of Alabama, hereby certify that the records in this office show that on the 19th day of November, 1894—

And one objection made was that this man was not secretary of state at the time when the canvass took place, and therefore could not certify as to the records of the office. Then follows that—

the returns of the election held on the 6th of November, 1894, for members of Congress were duly canvassed by the governor and secretary of state, as required by law, and the following result was declared—

Then follows a list of the votes in the Fifth and also in the Fourth and in the Ninth Congressional districts of the State of Alabama, and the certificate is signed——

Mr. COBB of Alabama. Now, if the gentleman will permit me.

Mr. DANIELS. I must object to being interrupted, Mr. Cobb.

Mr. COBB of Alabama. You do not want to misstate that.

Mr. DANIELS. No, sir; you will please sit down and allow me to proceed. I do not intend to misstate it.

Mr. COBB of Alabama. That was not brought here at the instance of the committee at all.

Mr. DANIELS. I am talking now of the certificate of the secretary of state. To which is appended this certificate:

In testimony whereof witness my hand, and the great seal of the State, at the capitol, this 6th day of December, 1894.

And he did so seal and subscribe the certificate.

That is the certificate of the secretary of state. Now, to show whether there was any foundation for the contention set up on the part of the contestee and the objection he made to this certificate, we required the contestant to send to the secretary of state and get a further certificate as to what appeared to have actually transpired in the count of these votes and all matters connected with it; and he sends it to us in the shape of another and more elaborate certificate, which I hold in my hand, going through all of these counties, showing the votes received, the votes canvassed, the returns of the supervisors, all the certificates, and the results of the election under the great seal of the State. This paper satisfied the committee amply that there was no ground for the complaint which had been set up as to the certificate of the secretary of state; that the proceedings were entirely straight and regular, and that each county had been canvassed properly by itself. This paper, therefore, might just as well be eliminated altogether—the paper I hold in my hand—because the certificate of the secretary of state is complete in itself. This simply shows the steps that had been taken in the office of the secretary of state, county by county, and instead of being a general statement of the secretary of state as to one particular county or district it shows what took place and the result, treating each county by itself, and giving in detail severally and distinctly the result of the canvass in each of the counties of the district.

Under these circumstances we contend, on the part of the majority of the committee, that there was no difficulty at all in ascertaining the vote given for Mr. Cobb. He was not willing to make the concession in the face of the facts exhibited, but, on the other hand, he set up untenable objections all through. He made no statement in his brief of the vote in the different precincts given for himself or Mr. Goodwyn, but contented himself with interposing technical objections to the different certificates which were presented. Among others was the certificate of the registrar of the voting population. He certifies, as the law requires that to be done, showing the names of the persons who were registered as voters. I will read one of the certificates of one of the registrars. They are all alike, except in the name of the registrar:

I, J. J. Motley, registrar for said precinct (or ward) No. 1, in the county of Macon, do hereby certify that the above and foregoing names of registered voters were duly registered by me according to law, and that each of said persons so registered took and subscribed before me the above and foregoing oath on the dates set opposite to their several names.

Witness my hand this 1st day of June, 1894.

J. J. MOTLEY, *Registrar.*

Then comes the certificate of the probate judge to whose office the returns were required to be made by the inspectors of elections, showing the result of the election in the different precincts, and his certificate is in the following words:

STATE OF ALABAMA, *Macon County:*

I, W. H. Hurt, judge of probate in and for said State and county, hereby certify that the foregoing pages, numbered from 1 to 28, inclusive, is a true, correct, and full copy of the registration list for beat No. 1 of said county for the year 1894, as the same appears on file in this office.

Given under my hand this 30th day of November, 1894.

[SEAL.] W. H. HURT, *Judge of Probate.*

That, in the natural course of things, went to the board of supervisors of the county, as these inspectors sent in their count of the votes to the judge of probate. The judge of probate, the sheriff, and the clerk constitute the board of supervisors, and they were required to canvass the vote, which they did, as it appears by the certificates, which are certified and sent here by the secretary of state. The next step was for the secretary of state, the governor, and the attorney-general, or any two of them, to go on and canvass the vote officially and determine who was elected to Congress from the district, and that appears by these certificates, which are to be found in the record accompanying the case, showing that in every separate step they proceeded as the law required, following technical details, as will be found by reference to the record.

It may be, of course, that there can be found defects in the official steps required to be taken by the registrars and inspectors of the election of the probate judges and the secretary of state; but if you require strict and entire accuracy in all of these matters of election by persons who have authority in the State to conduct them, there would be no case arising on which any member could stand here and sustain his right to a seat, because in every respect the utmost accuracy had not been preserved. It would be almost an impossibility. We have as near, however, as it is practicable to go, and as strict compliance with the laws of Alabama will be found in this case as has ordinarily been presented to a committee of this House. And if, on the other hand, in dealing with a question of the right of a member to a seat on this floor and in ascertaining or attempting to ascertain whether a member has been legally elected or not, you require him to establish affirmatively that every one of these steps has been absolutely and strictly taken, then your investigation may as well be given up at once, because it will be almost impossible to establish such a fact, and there will be no criterion on which you can proceed to assert the right of a member to a seat here.

On the contrary, we must take these matters as we find them in the public offices. We must take the return of the register of votes as we find it in the office of the probate judge. We must take the certificates of the inspectors of electors as we find them there, or their return, whether they certify to it or not, whether they go on and deliver to the probate judge simply a list of the persons who were voted, or whether they formally certify the paper goes there and the probate judge puts it upon his record. It becomes a paper of his office, and there it remains until he is required to act upon it and makes his certificate, in the form to which I have called the attention of the House.

Now, what more can be done for the purpose of authenticating the proceedings of this character? The canvass of the secretary of state rested upon it. The canvass of the board of supervisors rested upon it, and the positions of the members who come here to hold their seats rest entirely upon the regularity of those proceedings, without reference to technical defects. That is the situation in which this matter comes before this House. Now, it was objected on the part of the contestee, as it has been objected here, that under the laws of Alabama neither the probate judge nor the secretary of state had any power to certify copies of these papers so that they might be used in evidence. It was objected strenuously that the certificate of the probate judge was simply certifying to a copy of a copy when he certified to the registration list; but the law of the State of Alabama requires that when the registration was taken to the office of the probate judge he should then make out an alphabetical list of each one of the papers, each one of the lists of the registrar, and that he should send a copy of that list to each one of the precincts to be used upon the day of election in his county. It all appears to have been done in this case, and the election has been held upon the basis of these papers. The law of the State of Alabama has provided that where papers are on file in any public office that the officer may certify to those papers, and that his certificate, when he certifies to the papers, is evidence of the facts stated in the paper itself.

Now, the gentleman objected that the officer could not certify, because the law did not say in so many words that the paper must be kept in his office. It did not say to the probate judge, "You must keep these papers on file," or to the secretary of state, "You must keep these papers on file;" and therefore, they say, he was at liberty to burn them up or do anything else that he pleased with them except to keep them. That was a view that the committee could not accept, because it is the intent of the law when these papers are sent to the public office that they shall remain there and become a part of the records of that office, and the system devised by the laws of the State of Alabama, as well as of other States, is that these papers can be authenticated by the certificate of the officer who holds the office where the papers are deposited. Upon this subject it has been provided by the laws of Alabama that—

Copies of official bonds or other instruments or papers required to be kept by any officer of this State, and transcripts from the books and proceedings required to be kept by any sworn officer of the State, are presumptive evidence in any civil cause, and have the same legal effect as if the original were produced and proved, upon the certificate of the custodian thereof that it is a true copy of the original.

This is a general statutory provision of the State of Alabama, not simply restricted to the secretary of state, but including all public officers. Is it possible that such a narrow construction is

to be placed upon it that the officer is to be excluded from the power of certification because the law did not say to him when these registration lists came into his office or when the returns of the inspectors of election came there that he must keep those papers upon the files of his office? He was not bound to keep them, and therefore he was at liberty to disregard the deposit and send them anywhere he pleased, and that his certificate under those circumstances, if the papers remained in the office, could not be used as evidence or presumptive evidence of the fact?

The law is a general one. The papers of course include papers of this character. Wherever the papers are required to go to a public office, and as there is no other provision relating to the disposition of these papers, the officer must take care of them. They must remain in his office as a part of the files of the office, and when any information is required as to these papers the place to go for it is the office of the probate judge or secretary of state, as the case may be. When that information is required to be used you have no power to take away these papers from the office. All you can ordinarily do is to take his certificate to a copy of the paper, and that, the law says, shall have the same force and effect as the original would have if it were produced before the tribunal or the authority considering the subject.

Now, the law also provided that these returns of these votes, as they were sent in, shall go to the board of supervisors, and they shall make their canvass of the votes, and then upon that being done, as I think I have already stated, the whole thing goes to the office of the secretary of state, the papers are required to be sent there, precisely as these papers were sent there, and this canvass is required to be made within a certain period of time; and after it is made there is no provision declaring that anybody can abstract one of those papers from the office of the secretary of state. On the contrary, the theory of the law is that they must remain there, and remain there as evidence of the proceedings which have been taken upon the basis of these papers; and one of these proceedings is the declaration or proclamation that a certain man has been elected to Congress upon the appearance of the documents as they have been presented to that office. So that, in reference to these matters, these are mere technical questions, and the objections to them have no substantial foundation in the laws of the State of Alabama. If these objections are allowed to prevail upon a contest of this character, where can you then find the proof that any person has been elected a member of the House of Representatives?

Now, objection was made during the progress of the proceedings that certain important evidence was brought before the notary after the contestant's proofs in chief were closed. And I desire right here to present to the attention of the House one or two of these objections. The most important of the objections of the contestee is to the fact that Mr. Walker, who had been a United States marshal in the State of Alabama, was allowed to state, after the evidence on the part of the contestee had been taken, that it was reported in these contested precincts that the votes were not to be honestly and fairly polled or counted, and that the majority of the contestee was to be found in such precincts; and the minority of the committee have presented the objection to the House that this was improper evidence, for the reason that it was taken by way of rebuttal, and that Mr. Cobb, the contestee, had no power to controvert it. In answer to that objection, I desire to turn back to pages 66 and 67 of the record. The evidence there was taken on the 1st of February, 1895, and within the forty days that were allowed to the contestant to make his proof. What do you find in that testimony upon this subject? This subject is made the basis of the objection that, for the first time by rebuttal evidence, this fact was brought into the case. But Mr. Walker repeated upon his last examination only what he had testified to before. I will read briefly what he says upon the same subject, on page 67 of the record, in the evidence taken on the 1st of February, 1895, and the answer was served in this case on the 9th of January, 1895. His evidence is this:

Well, I will state here that I had been told by a person who was present and who was a party to an agreement for appointment of managers for the election in Macon County held on the 6th day of November last that the officials whose duty it was to appoint managers had agreed with certain persons who represented Judge Cobb's interest that in seven of the ten precincts Goodwyn would have a fair man to represent him at the polls, as follows: Notasulga, Texas, Society Hill, Warrior Stand, Cross Keys, Franklin, and La Place. That there were three precincts—Tuskegee, Cotton Valley, and Honeycut—

And the precincts here mentioned are the precincts considered in the report which has been made by the committee.

He testified that—

Goodwyn was to have no person to represent him, and that in those three precincts the Cobb men expected to count Cobb's majority.

This evidence was given in an early part of the case, and I submit to the gentlemen who are present here that the mere repetition of it at the time of the taking of the rebuttal testimony by Mr. Walker added nothing to it, and did not deprive this contestee of the right or opportunity to meet and contradict it if he could. What Mr. Walker says, in his rebuttal evidence, is simply this: He was speaking of a gentleman with whom he was:

In driving along he said: "We have agreed upon a plan for the appointment of those managers," and stated that, "We are going to give Goodwyn just as good men as we can find to represent his interest in 7 of the 10 precincts; that we are not going to give him a representative at the other 3 precincts, namely, Tuskegee, Cotton Valley, and Honeycut."

Where is the difficulty, where is the hardship, where is the trouble and embarrassment to this man in the fact that this testimony has been repeated while the witness so called back is repeating only the same testimony that was given on the 1st day of February, and still more fully on page 67 of the case?

The objections which have been taken as to these subjects are very much of a similar nature all the way through. And where copies of records were given, the contestee could have produced, if he had been disposed to, certified copies of such records. It has been objected that the notary had no authority to take testimony outside of the Congressional district. He did not have any such authority, but there was only the testimony of one witness who was objected to on that ground. The testimony of the other witnesses appear without objection, and there is evidence given on the part of the contestee in his rebuttal case going to rebut the testimony which the other four witnesses gave.

Now, if that is the case as to the testimony of these four witnesses taken before the notary out of the district, it must be agreed that substantially it was taken by consent. We have paid no attention whatever to the evidence of the person whose testimony was objected to, and it is so stated in the report, but as to the testimony of the other witnesses, we have regarded it as in the case because there was no objection made to taking it, and the testimony itself is of very slight importance. Now, another objection that was taken on the part of the contestee as to evidence in rebuttal was concerning the statement of 13 witnesses, who swore that they did not vote for the contestee, although they were named in the poll lists as persons who had voted in that election. It was simply an enlargement of similar evidence given before on the part of the contestant when the case was before the notary on the 1st, 2d, and 5th of February. I think those are the days. At that time a large number of persons were sworn, and swore out and out, with as much positiveness as the English language can express, that they did not vote at this election; and most of them swore that they did not register at this election.

Now, under these circumstances, when these people came up and swore as they did, that they did not vote, is it to be supposed that the contestee had the power to prove that they did vote, unless perhaps by these inspectors of election, who were appointed for the very purpose of carrying out this system of fraud and iniquity? These are the objections that are mainly relied upon as to rebuttal evidence.

I desire now to call the attention of the House to other matters which complicate the contestee with the fraud and rascality which appear to have taken place in that election. I have read a portion of the evidence of Mr. Walker, on page 66 of the record, as to the current report that fraud was intended. Two meetings were held, and I maintain that the evidence complicates the contestee in that design. Although he did not go and put his handful of ballots into the ballot box, although he did not make fraudulent and false registration lists and poll lists, he opened the way by which all this iniquity could be successfully perpetrated, and therefore he was responsible, morally responsible, for what took place in these controverted precincts. There were two meetings held in Macon County, one at Cross Keys and another at Benton, and it makes no difference how many people were present at those meetings. It has been said that there were only 35 persons present at one of them, but the number is immaterial. At the meeting at Cross Keys a resolution was offered, and also at the meeting at Benton, asking Mr. Cobb, the contestee, to join with the contestant, Mr. Goodwyn, in requesting the officials who were to appoint the election officers to make a fair division of them between the parties. I may as well read the resolution. It is as follows:

Whereas the citizens of Bentley, in the county of Macon, the same being the home county of the Hon. James E. Cobb, having learned on what they regard as reliable information that the appointing board of managers of elections would not appoint a representative manager for Goodwyn in three precincts in Macon, namely, Tuskegee, Cotton Valley, and Honeycut, and that the refusal to appoint a division of managers was, in their judgment, to commit fraud in the interest of Judge Cobb; that, therefore, be it resolved, that the citizens of Bentley do hereby urge Judge Cobb to join with them as citizens of his own home county in a request to the appointing board to give Mr. Goodwyn a division of managers in the aforesaid three precincts.

Mr. COBB of Alabama. Now, will the gentleman please do me the justice to state that that is not the resolution itself, but merely Mr. Walker's remembrance of it?

Mr. DANIELS. Yes; we will not stand on that. We will not hold the contestee responsible on the sole ground that he did not agree to this resolution, even if its language has been accurately given by the witness, but we will bring him down to his own signature, not only with reference to these three precincts but to

each one of the precincts now in controversy, where it is claimed on behalf of the contestant that the fraudulent votes were given and returned in favor of the contestee. I read from a letter from Mr. Goodwyn to Mr. Cobb:

ROBINSON SPRINGS, ALA., *September 14, 1894.*

Hon. J. E. COBB, *Tuskegee, Ala.*

DEAR SIR: As the Congressional nominee of the Jeffersonian and People's Party for the Fifth district, I make the following proposition to you, as the nominee of the Organized Democratic party, to wit:

1. That in the interest of free ballots and fair counts in the ensuing Congressional election, we join in a petition to the county appointing boards asking that both contending parties be represented at every polling place in the district among the inspectors of election; and that said inspectors be nominated by the recognized county executive committees of each party, respectively; and that we further petition the board of inspectors to appoint clerks of each opposing party, and an equal number of assistants from each party in the preparation of ballots.

That was not limited to any particular precinct, but applied to all the precincts, including those mentioned in the resolution, and it was intended to require that these officers should appoint, for the benefit of each party, persons designated by a committee and who would have the power to see to it that there was an honest election. The contestee replied to a part of the letter, agreeing to the joint discussion. Then Mr. Goodwyn telegraphed to him:

Do you positively decline to accept my first proposition? Answer.

That telegram is dated September 20, 1894. To this Mr. Cobb replied on the 21st of September, 1894:

First proposition declined; second accepted. Will you meet me on Monday? Answer as soon as possible.

There was a positive refusal on the part of the contestant to join in the request to the officers, the probate judge, the sheriff, and the clerk, who were to appoint these election officers, to give each party a fair representation, so as to preclude the occurrence or a possibility of fraud in these election precincts. But this telegram was preceded by a letter which gives a further explanation of the position taken by the contestee, and I desire to call the attention of this House to the reasons, or the excuses, which this man gave for refusing to join in this manly proceeding intended to have the election officers divided fairly between the two parties and justice secured. He says:

The objections to this proposition are so patent and vital that it is difficult to understand how they escaped your apprehension. Its foundation idea is that the county officials of the several counties of the district are corruptly unwilling to discharge their duties—a presumption not indulged by the law or by a healthy public sentiment. You propose not only that requests be made to the county appointing boards that the contending parties be represented at the polls by men satisfactory to them respectively, but that the members of these boards surrender absolutely their judgments in the discharge of their duties and accept as conclusive and binding on them whatever action in this behalf the county executive committees may take. For, while you use the words "be nominated," it is clear that, as no choice is left to the county officials, the "said inspectors" so nominated must be appointed by them without question. It seems to me that an honest official, while ready and anxious to hear and adopt suggestions as to the persons to be appointed by him which tend to secure fairness in elections and to give satisfaction to the people, would consider a proposition made to him to relinquish altogether his sworn duty to be a reflection either on his capacity or his integrity.

What do you think of that? There are the excuses—there is a recapitulation of the reasons—why this man would not join with Mr. Goodwyn, the contestant, in asking these officers to select clerks and appoint inspectors and to divide the election appointees fairly between the two parties. It was because it might be regarded as an insult to the men who were to be selected, and who might be selected, or who might be engaged in the selection, because it might carry an imputation upon them that they were trying to do precisely what they did do, namely, defraud the people out of their votes.

Mr. COBB of Alabama. There is more of that letter than you have read.

Mr. DANIELS. Yes. The other part relates to the joint discussion. The whole of this part of the letter of Mr. Goodwyn to Mr. Cobb simply asked him to join in requesting these officers, the probate judge, the sheriff, and the clerk, to make an equal division of the inspectors and the poll clerks, in order that there might be an honest election. That is all there is of it. But when the letter of Mr. Cobb comes in, it is, as will be seen, a mass of subterfuge for the purpose of excusing himself from acquiescing or joining in what was a perfectly honest and honorable proceeding to secure a proper and honest election in those precincts.

Mr. COX. Allow me to ask the gentleman whether the officers who were to hold the election were not designated by law?

Mr. DANIELS. No, sir; they were to be appointed by the sheriff, the probate judge, and the clerk.

Mr. COX. That was to be done under a statute of that State?

Mr. DANIELS. Yes, sir.

Mr. COX. And they were the legal officers to hold the election?

Mr. DANIELS. If they were so appointed.

Mr. COX. Now, why do you expect those officers to practice a fraud any more than you would an officer of the Government?

Mr. DANIELS. We do not expect those officers to practice a fraud at all.

Mr. COX. Then what do you want with a new set?

Mr. DANIELS. There was no new set asked for. It was asked that the appointments should be made equally between the political friends of the two candidates. What was asked for was that there should be a board appointed that would have the ability to see to it and would see to it that an honest and fair election was held. Under the law of the State of Alabama both parties are entitled to be represented upon boards of that character—the minority as well as the majority. This was simply a request that the contestee in this case join with the contestant in asking the appointing officers, in making up the election board of inspectors and clerks, to make an equal division between the two parties or such a division as would secure a fair and honest observance of the rights of the contestant.

Mr. COBB of Alabama. They were to be asked to appoint men named by the committees and not selected by the officers themselves.

Mr. DANIELS. No matter as to that, if the committees suggested to them perfectly good men. No objection could be made to the appointment of the men desired. The sheriff, the clerk, and the probate judge should have appointed them. That is what is done in other States where there are similar laws, and it was only expected that under the law of the State of Alabama a proper exercise of this authority would be made. But it was not done. No persons were appointed to represent the contestant at these different precincts, unless it was some ignorant man with no force of character, who could be hoodwinked and deceived by the persons who were appointed for the purpose of carrying out what was stated to be the purpose, according to notorious reports circulating through the country—the furnishing to the contestee of his majority in those precincts and deriving the vote from a dishonest source.

Looking beyond what transpired between these parties, take the registration lists, for instance. You will see that this scheme of fraud and the design to carry it into execution commenced before the time when those reports of designed frauds were circulated, when Mr. Walker says it was currently reported that these frauds were to be committed and the contestee's majorities were to come from these notoriously Republican precincts, where the black population greatly outnumbered the white, and where the voters are shown to be men who would vote the Republican ticket. Besides that, it appears by the evidence that the colored persons were persuaded by the leaders of their party not to register and not to vote because, if they did vote, their votes would not be honestly counted, but would be turned over to the contestee.

Now, look at the registration lists. It is not shown that these men went up and registered. On the contrary, the evidence is that they did not register and did not vote. They followed in this respect the advice of their leaders. Look at the registration lists and you find a "W" for white voters and a "C" for colored. You find on the registration lists a large majority of colored persons appear as having registered. On page 123 you have just five W's for the white people; every other name is marked with a C, indicating apparently that all the others were colored persons, notwithstanding that they had been advised to refrain from registration. On page 124 the same thing is repeated. We do not find a single W there—simply the letter C over and over again, showing that the colored voters were the persons who are stated to have made the registrations. Pass right along through these different precincts so far as given here and on the basis of which the contestee now holds his seat, and you find the same thing. As to one of these precincts, on page 138 you find C's all the way down—not one W. On page 139 you again have C's all the way down. On page 140 you have a fair amount of W's. On page 141 you have all C's, with the exception of five W's. On page 142 you find all C's; and the case is the same with page 143, page 144, page 145, page 146—all C's.

That is the manner in which these registration lists were made out. Is there any reason to doubt that these registrations were fraudulent? Is there any reason to believe that these men, who were advised by their leaders not to register and not to vote, came forward and registered? Notwithstanding it is proved without contradiction that they complied with the advice that was given to them by their leaders, is there any reason for believing that they went before the registrar and in this manner registered? But I will not stand merely upon the evidence given by the contestant on this subject. I will call your attention to a clause in the argument of the contestee himself, who, as I have said before, did not attempt to maintain his right to a seat upon the ground that he had been elected, but on the ground that by means of

these technical objections these proceedings may possibly be overthrown. What does he say in reference to the statements circulated among the colored people that they should not register and vote on that day? He used this language:

Stress is laid by the contestant on certain instructions said to have been given to colored voters. This appears in part 2 of the record, but was put there by contestant. (See page 148 of part 2.) It is not legal evidence, but if considered it must be remembered that it is in proof that William Stevens, a colored man, was acting as chairman of State committee of the Republican party and gave instructions directly to the reverse of what appears in said exhibit, and that these instructions were respected by colored voters.

Now, is it possible that this registration should actually take place where "C's" follow each other in unbroken succession if the voters, in defiance of the instructions of their leaders, were really and truthfully registered on the registration list? It is evidently a fraud, Mr. Speaker, from beginning to the end, and the evidence shows it. All of these events transpired in connection with this case, and concerning which there is substantially no controversy in the case.

Now, certainly the further proof which is given as to the supplemental list of the registers shows the same thing. The laws of the State of Alabama provide that only those who register should be entitled to vote at the election succeeding. It required that this list should be concluded by the latter part of May. Ordinarily it was closed out by the 26th day of May for the next election, and the persons who became 21 years of age after that time were entitled to register on the day of the election. Now, as to the vote of beat No. 14, in Lowndes County. There were 232 persons named on the registration list, but there were 118 added between the date of the registration in May and the election in November. Will you believe that 232 persons had families who produced 118 persons of legal age between the date of the 26th day of May and the 6th day of November of the same year? [Laughter.] Is it possible that any man would give credibility to any statement of that kind?

Again, in another place in Lowndes County 264 names are on the list originally, and there were added to the list between the 26th day of May and the 6th day of November 323 names. These are supposed to be the names of persons who became of age between the 26th of May and the 6th of November of the same year. Is this credible? Does not this, on the other hand, show conclusively that this was a gigantic swindle, a swindle that had been conceived before the time when this registration list was made up, and intended to be carried out for a fraudulent purpose, to secure fraudulent returns, and for the purpose of securing through fraud the election of the contestee?

Now, in one precinct, No. 1, of Lowndes County, as will appear by page 223 of the record in the case, we find the names of 123 persons who were asserted to be registered voters of Benton beat, in that county, and the testimony of witnesses residing in the vicinity, men who testified that they knew the voters in that beat, declare that there were no such persons. Upon this subject the witness Taylor swears that he knows only three of these names; A. J. Wood that he knows only three; E. T. Robinson knew two of them in the beat; a witness named Barlow testified to the same effect, and E. R. Hayden knew one of them. Of the 118 names which were added to the registration list between the 26th of May and the 6th of November the testimony is conclusive of fraud. Martin Smith knows not one; Mr. Carson knows not one of them; Mr. Brightman testifies that he knows one of them; John W. Jones knows none of them; Peter Frayzer knew none of them, and J. M. Salley and W. P. Brightman knew some three or four of them.

A subpœna was issued, including the names of the persons supposed to be fraudulently put on the list in this manner, requiring them to appear before the notary and be examined; and the officer proceeded through the precinct to hunt up these persons who were supposed to be fraudulently on the list, and requiring them to appear before the notary to be examined. But he could not find a single one of these individuals to serve the subpœna upon.

These, Mr. Speaker, are the evidences of the frauds which were inaugurated, and which were calculated to defeat the people of the State of Alabama in this particular district out of their right to rightful representation on the floor of this House. It was an effort on the part of the persons manipulating this election to defeat the will of the people at the polls and to seat in this House a man who was not elected by the voters of that State. Now, I care not what may be the politics of the man elected; I care not what may be his belief or who he may be, if the people of the district in which he resides are content to elect him to represent them in Congress he is their man, and he must be entitled to his seat when he comes here and presents himself under the authority of the electors of the district, no matter who he may be. In this case the man is a Populist. He was nominated by the Populists. He was nominated also by the Jeffersonian Democrats, and his nomination was taken up and approved by the committee of the Republican party, intending to sustain him honestly and squarely, and give him all the support that could securely be given to him for the purpose of securing his election.

Now, another thing will be remembered, to which I wish to call the attention of the committee, and that is that in the districts outside of these three counties where this controversy has arisen the contestant came down with a majority of 3,612 votes; that is, from the other counties of the district. He came down in this manner to these three counties which are called the black counties, because of the predominance of the black population over the white. Because of the fact that these people were the majority of the population of the counties they were called black counties, and it was there, not in the white counties, where the people were intelligent, where they could watch the proceedings, where they had a fair representation on the part of the elections, that these frauds were committed. Where these officers were properly divided, no objection can be made to the election. It was honest, regular, legal, as the law required it to be. In the ten precincts of Macon County, outside of these three where the opposing parties had no representation on the board, the election was perfectly straight and right. There was no cause of dissatisfaction; but when you come down to these Republican counties, with these large populations, where it is stated that the black people almost to a man are Republicans, and that they vote the Republican ticket, here you see that the man who was overthrown and rejected by the white men in the other counties comes out with a majority of over 3,000.

The SPEAKER. The time of the gentleman has expired.

Mr. DANIELS. I desire about five minutes more to call the attention of the committee to one further thing.

The SPEAKER. There are ten minutes remaining on that side.

Mr. DANIELS. I have all the time on this side.

Now, what was the vote in those Republican counties? What was the vote in these Republican precincts, 11 or 12 in number? Remember, this man, the contestee, had been rejected in the other counties of this district. Why, in the precinct of Honeycut, Goodwyn gets none, while Cobb gets 106. In Cotton Valley, Goodwyn gets none, Cobb gets 237. Does that look as though the Republicans had registered and were voting? In Benton, Goodwyn gets none, Cobb 311. In Hayneville, Goodwyn none, Cobb 611. In Lowndesboro, Goodwyn none, Cobb 526. In Whitehall, Goodwyn none, Cobb 209; St. Clair, Goodwyn none, Cobb 86; Statesville, Goodwyn none, Cobb 71; making an aggregate of 2,157 for Cobb and none for Goodwyn. Now, if the Republicans were voting, if they were sustaining the nomination that had been approved by their representative committee, would this state of things have taken place? If these votes had been given there honestly and fairly, as they were stated in the returns, would this large number have been given to the contestee and not one single vote to the contestant? It is improbable on its face. It is impossible on its face. On its face it is a fraud, and a gigantic fraud, that can be brought before this House in no other cases than those where there is an utter disregard of the laws of the State and of every restraint of morality and decency.

Now, in Tuskegee Goodwyn gets 9, Cobb 426; Church Hill, Goodwyn 2, Cobb 278; Gordonville, Goodwyn 2, Cobb 172. Out of the vote of those 3 precincts, therefore, Cobb gets 876 and Goodwyn gets 13. Those 11 precincts give Cobb a majority of 3,020. Coming down, remember, in the Republican precincts, into those precincts where these men, representing the Republicans and the other organizations, had asked that they be given a fair representation, so that there might be a fair election, which was refused, this is the result. Now, what is that consistent with? Is it consistent with honesty? Is it consistent with a fair observance of the legal obligations of parties or of the laws of the State of Alabama? Is it not the evidence, the culminating evidence, of one of the most gigantic, one of the most wicked, frauds that ever came before this House in the course of its proceedings where contested election cases have to be considered and determined?

It was said here that we impugned the laws and character of the people of the State of Alabama. We do no such thing. It is a State that has my unqualified admiration in everything but its elective policy. Its extensive rivers, its plateaus of fine soil, its deposits of mineral wealth, have given it all the resources necessary to make it one of the prosperous States of this Union, perhaps the most prosperous; and the only thing that now stands in its way is the prostitution of the laws relating to the elections of the State for public officers. If they please to be satisfied with it—though they are not—let them have their State officers in the way in which they choose, but do not let them foist upon this House members as persons who have been elected by the majority of the people, when those majorities are only upon paper—when they are frauds and fictions in and of themselves.

This case is one where certainly there can be no question as to the merits of the controversy. This contestant in the counties where the white people could canvass his claims and regard his character received the support of the precincts, but when you come

down to the places where the Republicans predominate and where it was hoped to shut out every possibility of excluding fraud and rascality, by leaving everything in the hands of these iniquitous election officers to do as they please, the votes are thrown in, or, if they are not thrown in at all, they are written upon the returns that are made without any regard to truth, regularity, legality, or anything else, for the purpose of foisting upon this House a man who has not been elected.

Now, if the members of this House are willing to sustain the claim of a person that originated under this state of things, that from the beginning, when he was requested to join in a proceeding which would shut out the possibility of this iniquity, and by his refusal it has all been brought about, comes before you and asks you to sustain him, is there anything left that will add to the degradation of the House of Representatives if it should vote to keep him in his seat under circumstances so appalling, so disgraceful, so fraudulent, and criminal in character? [Loud applause on the Republican side.]

Now, Mr. Speaker, I desire to move the previous question on the resolutions.

Mr. DINSMORE. I desire to offer a substitute.

The SPEAKER. The gentleman from Arkansas desires to offer a substitute. Does the gentleman from New York, in his motion for the previous question, exclude that?

Mr. DANIELS. It was not read, and I ask the previous question on my resolutions. The substitute was not read, although there is no objection to its being read.

The SPEAKER. Does the gentleman from New York desire that the substitute shall be offered before the question is taken on ordering the previous question?

Mr. DANIELS. I move the previous question, Mr. Speaker, as I stated, on the resolutions.

Mr. DINGLEY. Mr. Speaker, has the substitute been offered?

The SPEAKER. The gentleman from Arkansas offers a substitute for the original resolutions, and the gentleman from New York demands the previous question.

Mr. DINSMORE. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DINSMORE. The minority resolutions are before the House also?

Mr. BARTLETT of Georgia. They are in the report. They are offered as a substitute by the minority for the majority resolutions.

Mr. DINSMORE. I have offered this as a substitute for them all. This resolution which I offer asks to recommit this case to the Committee on Elections.

Mr. McMILLIN. That comes in later.

The SPEAKER. That would not be in order now.

Mr. DANIELS. I demand the previous question.

The SPEAKER. In the demand for the previous question, is the proposition of the gentleman from Arkansas not to be considered as offered?

Mr. McMILLIN. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. McMILLIN. I understand the gentleman from New York does not seek to cut off action on the substitute offered by the minority of the committee?

The SPEAKER. No; the Chair so understands.

Mr. McMILLIN. Then I understand that the gentleman from Arkansas, at the proper time, gives notice that he will seek to recommit the whole question? I believe that was your motion.

Mr. DINSMORE. That is what I desire. I supposed that it was in order either before or after the previous question was ordered.

The SPEAKER. The gentleman from New York asks the previous question on the original resolutions and the substitute offered by the minority.

Mr. BARTLETT of Georgia. Will a motion to recommit be entertained after the previous question has been ordered?

The SPEAKER. The Chair thinks that after the question on the substitute has been decided a motion to recommit may be in order.

The question was taken; and the previous question was ordered.

The SPEAKER. The question is on the substitute, which the Clerk will report.

The Clerk read as follows:

Resolved, That Albert T. Goodwyn was not elected a member of the Fifty-fourth Congress, and is not entitled to a seat therein.

Resolved, That James E. Cobb was elected a member of the Fifty-fourth Congress as a Representative from the Fifth Congressional district of the State of Alabama, and is entitled to a seat therein as such Representative.

The SPEAKER. The question is on agreeing to the substitute.

The question was taken; and the Speaker announced that the noes seemed to have it.

Mr. BARTLETT of Georgia. Division!

The House divided; and there were—ayes 47, noes 109.

So the substitute was rejected.

The SPEAKER. The question is upon the adoption of the resolutions offered by the committee.

Mr. DINSMORE. Is a motion to recommit now in order? I move the adoption of the resolution I send to the desk.

The SPEAKER. The gentleman from Arkansas moves that the resolutions be recommitted.

Mr. McMILLIN. I would ask the reading of the resolution, Mr. Speaker, which I think contains an instruction.

The Clerk read as follows:

Resolved, That the contested-election case of Goodwyn against Cobb be recommitted to Committee on Elections No. 1, with instructions to report a resolution authorizing the contestee to take further testimony in rebuttal of evidence in the record taken by contestant which is evidence in chief, during the last period of ten days in which testimony was taken.

The question was taken on the motion to recommit; and the Speaker announced that the noes seemed to have it.

Mr. BARTLETT of Georgia. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 60, nays 131, not voting 163; as follows:

YEAS—60.

Allen, Miss.	Erdman,	McCreary, Ky.	Sparkman,
Arnold, R. I.	Hall,	McCulloch,	Spencer,
Barrett,	Harrison,	McDearmon,	Strait,
Bartlett, Ga.	Hart,	McLaurin,	Sulzer,
Black, Ga.	Hendrick,	McMillin,	Swanson,
Clardy,	Jones,	McRae,	Talbert,
Cockrell,	Kendall,	Meyer,	Tate,
Cooper, Fla.	Knox,	Money,	Terry,
Cox,	Kyle,	Otey,	Turner, Ga.
Crisp,	Latimer,	Owens,	Turner, Va.
Crowley,	Layton,	Patterson,	Tyler,
Culberson,	Lester,	Pendleton,	Underwood,
De Armond,	Little,	Price,	Washington,
Dinsmore,	Loud,	Richardson,	Williams,
Elliott, S. C.	Maguire,	Sayers,	Willis.

NAYS—131.

Adams,	Daniels,	Hurley,	Ray,
Aldrich, Ala.	Dayton,	Hyde,	Royse,
Aldrich, Ill.	Dingley,	Jenkins,	Sauerhering,
Arnold, Pa.	Doolittle,	Kem,	Settle,
Avery,	Draper,	Kiefer,	Shafroth,
Babcock,	Ellis,	Kirkpatrick,	Shuford,
Baker, Kans.	Evans,	Lacey,	Skinner,
Barham,	Fowler,	Lefever,	Snover,
Barney,	Gamble,	Leighty,	Southwick,
Bartholdt,	Gardner,	Lewis,	Spalding,
Beach,	Gibson,	Linney,	Sperry,
Belknap,	Gillet, N. Y.	Long,	Stahle,
Bell, Colo.	Gillett, Mass.	Lorimer,	Steele,
Bishop,	Graff,	Loudenslager,	Stephenson,
Black, N. Y.	Griffin,	Mahany,	Stewart, N. J.
Blue,	Hadley,	Marsh,	Stewart, Wis.
Boutelle,	Hager,	McCall, Tenn.	Stone, C. W
Brewster,	Hainer, Nebr.	McEwan,	Strode, Nebr.
Broderick,	Halterman,	McLachlan,	Strowd, N. C.
Brosius,	Hardy,	Mercer,	Sulloway,
Brumm,	Harris,	Miller, Kans.	Towne,
Burrell,	Henderson,	Minor, Wis.	Tracey,
Cannon,	Henry, Conn.	Moody,	Updegraff,
Clark, Mo.	Henry, Ind.	Murphy,	Van Horn,
Connolly,	Hermann,	Northway,	Van Voorhis,
Cook, Wis.	Hill,	Otjen,	Walker, Mass.
Cooke, Ill.	Hitt,	Parker,	Warner,
Cousins,	Hopkins,	Payne,	Watson, Ohio
Crowther,	Howe,	Pearson,	White,
Crump,	Howell,	Perkins,	Wilson, N. Y.
Curtis, Kans.	Huff,	Phillips,	Wood,
Dalzell,	Huling,	Pitney,	Woomer.
Danford,	Hunter,	Pugh,	

NOT VOTING—163.

Abbott,	Codding,	Harmer,	McCleary, Minn.
Acheson,	Coffin,	Hartman,	McClellan,
Aitken,	Colson,	Hatch,	McClure,
Allen, Utah	Cooper, Tex.	Heatwole,	McCormick,
Anderson,	Cooper, Wis.	Heiner, Pa.	McKenney,
Andrews,	Corliss,	Hemenway,	Meiklejohn,
Apsley,	Cowen,	Hepburn,	Meredith,
Atwood,	Cummings,	Hicks,	Miles,
Bailey,	Curtis, Iowa	Hilborn,	Miller, W. Va.
Baker, Md.	Curtis, N. Y.	Hooker,	Milliken,
Baker, N. H.	Denny,	Howard,	Milnes,
Bankhead,	De Witt,	Hubbard,	Miner, N. Y.
Bartlett, N. Y.	Dockery,	Hulick,	Mondell,
Bell, Tex.	Dolliver,	Hull,	Morse,
Bennett,	Dovener,	Hutcheson,	Moses,
Berry,	Downing,	Johnson, Cal.	Mozley,
Bingham,	Eddy,	Johnson, Ind.	Neill,
Bowers,	Ellett, Va.	Johnson, N. Dak.	Newlands,
Bromwell,	Fairchild,	Joy,	Noonan,
Brown,	Faris,	Kerr,	Odell,
Buck,	Fenton,	Kulp,	Ogden,
Bull,	Fischer,	Lawson,	Overstreet,
Burton, Mo.	Fitzgerald,	Leisenring,	Pickler,
Burton, Ohio	Fletcher,	Leonard,	Poole,
Calderhead,	Foote,	Linton,	Powers,
Catchings,	Foss,	Livingston,	Prince,
Chickering,	Griswold,	Lockart,	Quigg,
Clark, Iowa	Grosvenor,	Low,	Raney,
Clarke, Ala.	Grout,	Maddox,	Reeves,
Cobb, Ala.	Grow,	Mahon,	Reyburn,
Cobb, Mo.	Hanly,	McCall, Mass.	Robertson, La.

Robinson, Pa.	Smith, Mich.	Thomas,	Wheeler,
Rusk,	Sorg,	Tracewell,	Wilber,
Russell, Conn.	Southard,	Treloar,	Wilson, Idaho
Russell, Ga.	Stallings,	Tucker.	Wilson, Ohio
Scranton,	Stokes,	Wadsworth,	Wilson, S. C.
Shannon,	Stone, W. A.	Walker, Va.	Woodard,
Shaw,	Strong,	Walsh,	Woodman,
Sherman,	Taft,	Wanger,	Wright,
Simpkins,	Tawney,	Watson, Ind.	Yoakum.
Smith, Ill.	Tayler,	Wellington,	

So the motion to recommit was rejected.

The following pairs were announced:

Until further notice:

Mr. RANEY with Mr. COWEN.

Mr. BINGHAM with Mr. DOCKERY.

Mr. ANDREWS with Mr. MILES.

Mr. WILSON of Ohio with Mr. MCKENNEY.

Mr. JOHNSON of Indiana with Mr. HUTCHESON.

Mr. HEMENWAY with Mr. ROBERTSON of Louisiana.

Mr. PRINCE with Mr. BAILEY.

Mr. JOHNSON of North Dakota with Mr. LAWSON.

Mr. MILLER of West Virginia with Mr. WOODARD.

Mr. OVERSTREET with Mr. BELL of Texas.

Mr. HOOKER with Mr. MINER of New York.

Mr. REEVES with Mr. CATCHINGS.

Mr. LEONARD with Mr. BERRY.

The following for this day:

Mr. BAKER of New Hampshire with Mr. NEWLANDS.

Mr. HOWARD with Mr. WALSH.

Mr. MILLIKEN with Mr. ABBOTT.

Mr. QUIGG with Mr. FISCHER.

Mr. CODDING with Mr. BANKHEAD.

Mr. WANGER with Mr. WHEELER.

Mr. RUSSELL of Connecticut with Mr. WILSON of South Carolina.

Mr. PICKLER with Mr. MOSES.

Mr. CLARK of Iowa with Mr. TUCKER.

Mr. JOHNSON of California with Mr. MEREDITH.

Mr. FOSS with Mr. RUSSELL of Georgia.

Mr. ACHESON with Mr. SORG.

Mr. ALLEN of Utah with Mr. CLARKE of Alabama.

Mr. MAHON with Mr. OGDEN.

Mr. SIMPKINS with Mr. MCCLELLAN.

Mr. BURTON of Missouri with Mr. YOAKUM.

Mr. HARMER with Mr. MADDOX.

Mr. GROSVENOR with Mr. NEILL.

Mr. JOY with Mr. CUMMINGS.

Mr. DE WITT with Mr. ELLETT of Virginia.

Mr. MCCLURE with Mr. DOWNING.

Mr. HATCH with Mr. COOPER of Texas.

Mr. HUBBARD with Mr. RUSK.

Mr. REYBURN with Mr. COBB of Missouri.

Mr. POOLE with Mr. LIVINGSTON.

Mr. KULP with Mr. STOKES.

Mr. BROWN with Mr. FITZGERALD.

Mr. CORLISS with Mr. SHAW.

Mr. LEISENRING with Mr. LOCKHART.

Mr. HULICK with Mr. BUCK.

Mr. MEIKLEJOHN with Mr. BARTLETT of New York.

Mr. TRELOAR with Mr. STALLINGS.

Mr. THOMAS. Mr. Speaker, I desire to vote.

The SPEAKER. Was the gentleman in the Hall and listening and did he fail to hear his name called?

Mr. THOMAS. I do not know whether I was in the Hall or not when my name was called. I think I was in the lobby.

The SPEAKER. Under the rule the Chair can not entertain the gentleman's request.

Mr. THOMAS. If permitted to vote, I should vote "nay."

Mr. DOCKERY. Mr. Speaker, I voted, but being paired with the gentleman from Pennsylvania, Mr. BINGHAM, I withdraw my vote.

Mr. BAILEY. Mr. Speaker, I am paired with the gentleman from Illinois, Mr. PRINCE, so I will withdraw my vote. I desire to announce on behalf of my colleague, Mr. COOPER of Texas, that he was called from the Hall a few moments ago. He is paired with the gentleman from Indiana, Mr. HATCH, but if present and not paired, he would vote "yea."

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

The SPEAKER. The question is on the passage of the resolution.

Mr. BARTLETT of Georgia. Mr. Speaker, I ask for a division of the resolution.

The SPEAKER. Will the gentleman state where he desires the division made?

Mr. BARTLETT of Georgia. There are two resolutions—one declaring that Mr. Cobb was not elected, and the other declaring that Mr. Goodwyn was elected. I ask that they be voted on separately.

The SPEAKER. The Clerk will read the first resolution.

The resolution was read, as follows:

Resolved, That James E. Cobb was not elected a member of the Fifty-fourth Congress as a Representative of the Fifth Congressional district of the State of Alabama at the election held in said district on the 6th day of November, 1894, and is not entitled to the seat in the Fifty-fourth Congress as such Representative.

The resolution was agreed to.

The SPEAKER. The Clerk will read the second resolution.

The resolution was read, as follows:

Resolved, That Albert T. Goodwyn was elected a member of the Fifty-fourth Congress as the Representative of the Fifth Congressional district of the State of Alabama at the election held in said district on the 6th day of November, 1894, and is entitled to the seat in the Fifty-fourth Congress as such Representative.

Mr. BARTLETT of Georgia. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 119, nays 45, not voting 190; as follows:

YEAS—119.

Aldrich, Ala.	Dayton,	Kem,	Sauerhering,
Aldrich, Ill.	Dingley,	Kiefer,	Settle,
Avery,	Doolittle,	Kirkpatrick,	Shuford,
Babcock,	Ellis,	Lacey,	Skinner,
Baker, Kans.	Evans,	Lefever,	Snover,
Baker, N. H.	Fowler,	Leighty,	Southwick,
Barham,	Gamble,	Lewis,	Spalding,
Barney,	Gardner,	Linney,	Sperry,
Beach,	Gibson,	Long,	Stahle,
Belknap,	Graff,	Lorimer,	Steele,
Bell, Colo.	Griffin,	Mahany,	Stephenson,
Bishop,	Hadley,	Marsh,	Stewart, N. J.
Black, N. Y.	Hager,	McCall, Tenn.	Stewart, Wis.
Blue,	Haimer, Nebr.	McEwan,	Stone, C. W.
Boutelle,	Hardy,	McLachlan,	Strode, Nebr.
Brewster,	Harris,	Mercer,	Strowd, N. C.
Broderick,	Henderson,	Miller, Kans.	Sulloway,
Brosius,	Henry, Conn.	Milnes,	Thomas,
Brumm,	Henry, Ind.	Minor, Wis.	Treloar,
Burrell,	Hermann,	Moody,	Updegraff,
Cannon,	Hill,	Murphy,	Van Horn,
Clark, Mo.	Hitt,	Northway,	Van Voorhis,
Connolly,	Hopkins,	Otjen,	Walker, Mass.
Cooke, Ill.	Howe,	Payne,	Warner,
Cousins,	Howell,	Pearson,	Watson, Ohio
Crowther,	Huling,	Perkins,	White,
Crump,	Hunter,	Phillips,	Wilson, N. Y.
Dalzell,	Hurley,	Pitney,	Wood,
Danford,	Hyde,	Ray,	Woomer.
Daniels,	Jenkins,	Royse,	

NAYS—45.

Allen, Miss.	Erdman,	McDearmon,	Sulzer,
Bartlett, Ga.	Hall,	McMillin,	Swanson,
Black, Ga.	Harrison,	McRae,	Tate,
Clardy,	Hart,	Meyer,	Terry,
Cockrell,	Hendrick,	Otey,	Turner, Ga.
Cooper, Fla.	Jones,	Owens,	Turner, Va.
Cox,	Kendall,	Patterson,	Washington,
Crisp,	Lester,	Pendleton,	Wheeler,
Culberson,	Little,	Richardson,	Williams.
Denny,	Maguire,	Sayers,	
Dinsmore,	McCreary, Ky.	Sparkman,	
Elliott, S. C.	McCulloch,	Spencer,	

NOT VOTING—190.

Abbott,	Corliss,	Hooker,	Mondell,
Acheson,	Cowen,	Howard,	Money,
Adams,	Crowley,	Hubbard,	Morse,
Aitken,	Cummings,	Huff,	Moses,
Allen, Utah	Curtis, Iowa	Hulick,	Mozley,
Anderson,	Curtis, Kans.	Hull,	Neill,
Andrews,	Curtis, N. Y.	Hutcheson,	Newlands,
Apsley,	De Armond,	Johnson, Cal.	Noonan,
Arnold, Pa.	De Witt,	Johnson, Ind.	Odell,
Arnold, R. I.	Dockery,	Johnson, N. Dak.	Ogden,
Atwood,	Dolliver,	Joy,	Overstreet,
Bailey,	Dovener,	Kerr,	Parker,
Baker, Md.	Downing,	Knox,	Pickler,
Bankhead,	Draper,	Kulp,	Poole,
Barrett,	Eddy,	Kyle,	Powers,
Bartholdt,	Ellett, Va.	Latimer,	Price,
Bartlett, N. Y.	Fairchild,	Lawson,	Prince,
Bell, Tex.	Faris,	Layton,	Pugh,
Bennett,	Fenton,	Leisenring,	Quigg,
Berry,	Fischer,	Leonard,	Raney,
Bingham,	Fitzgerald,	Linton,	Reeves,
Bowers,	Fletcher,	Livingston,	Reyburn,
Bromwell,	Foote,	Lockhart,	Robertson, La.
Brown,	Foss,	Loud,	Robinson, Pa.
Buck,	Gillet, N. Y.	Loudenslager,	Rusk,
Bull,	Gillett, Mass.	Low,	Russell, Conn.
Burton, Mo.	Griswold,	Maddox,	Russell, Ga.
Burton, Ohio	Grosvenor,	Mahon,	Scranton,
Calderhead,	Grout,	McCall, Mass.	Shafroth,
Catchings,	Grow,	McCleary, Minn.	Shannon,
Chickering,	Halterman,	McClellan,	Shaw,
Clark, Iowa	Hanly,	McClure,	Sherman,
Clarke, Ala.	Harmer,	McCormick,	Simpkins,
Cobb, Ala.	Hartman,	McKenney,	Smith, Ill.
Cobb, Mo.	Hatch,	McLaurin,	Smith, Mich.
Codding,	Heatwole,	Meiklejohn,	Sorg,
Coffin,	Heiner, Pa.	Meredith,	Southard,
Colson,	Hemenway,	Miles,	Stallings,
Cook, Wis.	Hepburn,	Miller, W. Va.	Stokes.
Cooper, Tex.	Hicks,	Milliken,	Stone, W. A.
Cooper, Wis.	Hilborn,	Miner, N. Y.	Strait,

Strong,	Tracey,	Wanger,	Wilson, S. C.
Taft,	Tucker,	Watson, Ind.	Woodard,
Talbert,	Tyler,	Wellington,	Woodman,
Tawney,	Underwood,	Wilber,	Wright,
Tayler,	Wadsworth,	Willis,	Yoakum.
Towne,	Walker, Va.	Wilson, Idaho	
Tracewell,	Walsh,	Wilson, Ohio	

The following additional pairs were announced:

Mr. MOZLEY with Mr. LAYTON, for this day.

Mr. WANGER with Mr. STALLINGS, on this vote.

The SPEAKER. On this question the yeas are 119 and the nays are 45—less than a quorum.

Mr. DINGLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and the House accordingly (at 5 o'clock and 47 minutes p. m.) adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, a letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of David N. Heath against The United States, was taken from the Speaker's table, referred to the Committee on War Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. RAY, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 8212) for the preservation and protection of public records and documents, and providing for the use of copies thereof as evidence, reported the same with amendment, accompanied by a report (No. 1394); which said bill and report were referred to the House Calendar.

Mr. LACEY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 8071) to amend "An act respecting the limits of reservations for town sites upon the public domain," approved March 3, 1877, reported the same without amendment, accompanied by a report (No. 1395); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TRACEY, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 2490) entitled "An act to authorize the Secretary of War to improve and maintain the public roads within the limits of the national park at Gettysburg, Pa.," reported the same without amendment, accompanied by a report (No. 1398); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred House resolution No. 241, to authorize the Speaker to appoint a committee of five members to investigate and report to the House upon the management of the National Home for Disabled Volunteer Soldiers at Leavenworth, Kans., reported the same with amendment, accompanied by a report (No. 1399); which said resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MCCORMICK, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 6776) to provide an American register for the bark *Vila*, reported the same without amendment, accompanied by a report (No. 1416); which said bill and report were referred to the House Calendar.

Mr. UPDEGRAFF, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 7905) to establish and provide for the government of Greer County, Okla., and for other purposes, reported the same with amendment, accompanied by a report (No. 1434); which said bill and report were referred to the House Calendar.

Mr. SPERRY, from the Committee on the Post-Office and Post-Roads, to which was referred the bill of the House (H. R. 3273) for the classification of clerks in first and second class post-offices, reported the same with amendment, accompanied by a report (No. 1436); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HERMANN, from the Committee on Irrigation of Arid Lands, to which was referred the bill of the House (H. R. 6710) to amend an act approved August 18, 1894, and to aid in the reclamation of the arid lands, reported the same with amendment, accompanied by a report (No. 1437); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BRUMM, from the Committee on Claims, to which was referred the bill of the House (H. R. 5289) making appropriation for the payment of the French spoliation claims which have been adjudicated by the Court of Claims, reported the same with amendment, accompanied by a report (No. 1438); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILLIS, from the Committee on Agriculture, to which was referred the bill of the House (H. R. 3339) to create a special commission on highways, and to make appropriations therefor, reported the same with amendment, accompanied by a report (No. 1439); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

By Mr. GRIFFIN, from the Committee on Military Affairs: The bill (H. R. 518) for the relief of John C. Nuss. (Report No. 1396.)

By Mr. BAKER of Kansas, from the Committee on Pensions: The bill (H. R. 6519) granting a pension to Herman Dellit. (Report No. 1397.)

By Mr. AVERY, from the Committee on Claims: A resolution (House Res. No. 264) to refer the bill (H. R. 6682) for the relief of the estate of Joshua Hill, together with all accompanying papers, to the Court of Claims, reported in lieu of House bill No. 6682. (Report No. 1401.)

By Mr. GIBSON, from the Committee on War Claims: A resolution (House Res. No. 265) to refer the bill (H. R. 6912) for the relief of David Hogan, with accompanying papers, to the Court of Claims, reported in lieu of House bill No. 6912. (Report No. 1402.)

By Mr. HATCH, from the Committee on War Claims:

The bill (S. 59) entitled "An act for the relief of Joseph W. Carmack." (Report No. 1403.)

The bill (H. R. 5721) to relieve Alice Utz, heir and legatee of Joshua Wiley, and to give the Court of Claims jurisdiction, and to remove the bar of statute of limitations. (Report No. 1404.)

By Mr. HURLEY, from the Committee on War Claims:

The bill (H. R. 2011) for the relief of Capt. John T. Bruen, of the State of New York. (Report No. 1405.)

The bill (H. R. 6430) to carry out the findings of the Court of Claims in the case of David Miller. (Report No. 1406.)

By Mr. LESTER, from the Committee on War Claims:

A resolution (House Res. No. 266) to refer the bill (H. R. 7752) for the relief of the owners of the steamer *Leesburg*, with all accompanying papers, to the Court of Claims, reported in lieu of House bill No. 7752. (Report No. 1407.)

A resolution (House Res. No. 267) to refer the bill (H. R. 8335) for the relief of Jacob Cohen, with all accompanying papers, to the Court of Claims, reported in lieu of House bill No. 8335. (Report No. 1408.)

By Mr. MAHON, from the Committee on War Claims:

A resolution (House Res. No. 268) to refer the bill (H. R. 3563) for the relief of J. H. Sparks, with all accompanying papers, to the Court of Claims, reported in lieu of House bill No. 3563. (Report No. 1409.)

A resolution (House Res. No. 269) to refer the bill (H. R. 6943) for the relief of Sarah Friedman, with all accompanying papers, to the Court of Claims, reported in lieu of House bill No. 6943. (Report No. 1410.)

The bill (S. 682) entitled "An act for the relief of the heirs of Sterling T. Austin, deceased." (Report No. 1411.)

By Mr. OTJEN, from the Committee on War Claims: A resolution (House Res. No. 270) to refer the bill (H. R. 5460) for the relief of James Lindsay, with all accompanying papers, to the Court of Claims, reported in lieu of House bill No. 5460. (Report No. 1412.)

By Mr. PUGH, from the Committee on War Claims:

The bill (H. R. 6269) for the relief of James M. Blackburn, of Covington, Ky. (Report No. 1413.)

A resolution (House Res. No. 271) to refer the bill (H. R. 1517) for the relief of Rudolphus Minton, of Louisville, Ky., to the Court of Claims. (Report No. 1414.)

The bill (H. R. 6426) for the relief of the Madison Female Institute, located at Richmond, Ky. (Report No. 1415.)

By Mr. DENNY, from the Committee on Claims: The bill (H. R. 1531) for the relief of the legal representatives of John Wightman, deceased. (Report No. 1417.)

By Mr. DE WITT, from the Committee on Claims: The bill (S. 1585) entitled "An act to authorize and direct the Auditor for the Post-Office Department to credit the account of George H. Tice, postmaster at Perth Amboy, N. J., for postage stamps and money-order funds stolen from his office." (Report No. 1418.)

By Mr. COX, from the Committee on Claims:

Views of a minority of said committee upon the bill (H. R. 1531) for the relief of the legal representatives of John Wightman, deceased. (Report No. 1417, part 2.)

The bill (H. R. 1343) for the relief of the legal representatives of Massalon Whitten, deceased. (Report No. 1419.)

The bill (H. R. 1510) for the relief of Franklin Lee and Charles F. Dunbar. (Report No. 1420.)

By Mr. ANDERSON, from the Committee on Invalid Pensions: The bill (H. R. 7334) granting an increase of pension to William T. Applegate. (Report No. 1421.)

By Mr. ANDREWS, from the Committee on Invalid Pensions: The bill (H. R. 487) granting increase of pension to John F. Early. (Report No. 1422.)

By Mr. CROWTHER, from the Committee on Invalid Pensions: The bill (S. 504) entitled "An act to increase the pension of Edmund Woog." (Report No. 1423.)

By Mr. LAYTON, from the Committee on Invalid Pensions:

A bill (H. R. 8357) granting a pension to Dora D. Jones, reported in lieu of House bill No. 8102. (Report No. 1424.)

The bill (H. R. 7067) granting a pension to Joseph B. Arbaugh. (Report No. 1425.)

By Mr. PICKLER, from the Committee on Invalid Pensions:

The bill (H. R. 5193) granting increase of pension to Emma Thurston. (Report No. 1426.)

The bill (H. R. 7660) granting an increase of pension to Samuel M. Howard. (Report No. 1427.)

The bill (H. R. 7346) granting an increase of pension to John A. Worswick. (Report No. 1428.)

By Mr. POOLE, from the Committee on Invalid Pensions: The bill (H. R. 7898) granting an increase of pension to William D. Seamans, late a private Company L, Fourteenth New York Heavy Artillery. (Report No. 1429.)

By Mr. SULLOWAY, from the Committee on Invalid Pensions: The bill (S. 2600) entitled "An act granting a pension to Mrs. Clifford Neff Fyffe." (Report No. 1430.)

By Mr. THOMAS, from the Committee on Invalid Pensions: The bill (S. 1510) entitled "An act to pension Mrs. Susan M. Sessford." (Report No. 1431.)

By Mr. WOOD, from the Committee on Invalid Pensions:

The bill (H. R. 6989) to increase the pension of Robert A. Roberts. (Report No. 1432.)

The bill (H. R. 3108) to grant a pension to Jesse Durnell, late second-class pilot on gunboat *Lexington* and transferred to gunboat *Marmora*. (Report No. 1433.)

By Mr. BISHOP, from the Committee on Military Affairs: The bill (H. R. 6032) for the relief of Spencer D. Hunt. (Report No. 1435.)

PUBLIC BILLS, MEMORIALS, AND RESOLUTIONS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. FENTON: A bill (H. R. 8350) to fix the pay of noncommissioned staff officers of the United States Army unattached to regiments—to the Committee on Military Affairs.

By Mr. NORTHWAY: A bill (H. R. 8351) to restore pensions to certain widows—to the Committee on Invalid Pensions.

By Mr. POOLE: A bill (H. R. 8352) to amend section 3 of the act approved June 27, 1890, entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents"—to the Committee on Invalid Pensions.

By Mr. SKINNER: A bill (H. R. 8353) to submit to a direct vote of the people free coinage of silver at 16 to 1; a graduated income tax; the election of President, Vice-President, and United States Senators by a direct vote of the people—to the Committee on Election of President, Vice-President, and Representatives in Congress.

By Mr. ANDREWS: A bill (H. R. 8354) to adjust the pensions of maimed Union soldiers and sailors of the late war of the rebellion—to the Committee on Invalid Pensions.

By Mr. PICKLER: A bill (H. R. 8355) to provide for the distribution of condemned cannon to State and Territorial departments of the Grand Army of the Republic—to the Committee on Naval Affairs.

By Mr. SULLOWAY: A bill (H. R. 8356) to establish a life-saving station at or near Great Boars Head, on the coast of New Hampshire—to the Committee on Interstate and Foreign Commerce.

By Mr. QUIGG: A joint resolution (H. Res. 175) directing the Secretary of the Navy to appoint a commission of naval experts to examine and report upon the Secor direct system of propelling vessels and its applicability to naval purposes—to the Committee on Naval Affairs.

By Mr. CANNON: A resolution (House Res. No. 261) relating to the number of condemned cannon, carriages, and balls in possession of the Navy Department—to the Committee on Naval Affairs.

Also, a resolution (House Res. No. 262) relating to the number of condemned cannon, carriages, and condemned cannon balls in possession of the War Department—to the Committee on Military Affairs.

By Mr. BULL: A memorial of the legislature of the State of Rhode Island, in favor of the passage of House bill No. 4339, to establish a national military park to commemorate the campaign, siege, and defense of Vicksburg—to the Committee on Military Affairs.

By Mr. ARNOLD of Rhode Island: A memorial of the legislature of the State of Rhode Island, in favor of the passage of House bill No. 4339, to establish a national military park to commemorate the campaign, siege, and defense of Vicksburg—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 follows:

By Mr. ATWOOD: A bill (H. R. 8358) granting pension to Sarah A. McInerney, as dependent mother—to the Committee on Invalid Pensions.

By Mr. BRODERICK: A bill (H. R. 8359) for the relief of John H. Davison—to the Committee on Military Affairs.

By Mr. CURTIS of Iowa: A bill (H. R. 8360) granting a pension to C. S. Alvord—to the Committee on Invalid Pensions.

By Mr. HARDY: A bill (H. R. 8361) to compensate Sophie Kosack for injuries sustained, and reward her for bravery displayed in rescuing the imperiled in the "Old Ford's Theater" disaster—to the Committee on Claims.

By Mr. HULING: A bill (H. R. 8362) to correct the military record of George Simmonds, late of Company D, Ninety-sixth Regiment Pennsylvania Infantry—to the Committee on Military Affairs.

By Mr. HURLEY: A bill (H. R. 8363) for the relief of Robert D. Benedict—to the Committee on Claims.

By Mr. KIRKPATRICK: A bill (H. R. 8364) for the relief of Capt. Henry C. Seaman—to the Committee on Military Affairs.

Also, a bill (H. R. 8365) granting a pension to Dr. J. B. Thurman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8366) to remove the charge of desertion against David G. Cormack—to the Committee on Military Affairs.

By Mr. MURPHY of Arizona: A bill (H. R. 8367) for the relief of Delos H. Smith—to the Committee on Claims.

Also, a bill (H. R. 8368) for the relief of John A. Mellon—to the Committee on Claims.

By Mr. MURPHY of Illinois: A bill (H. R. 8369) for the relief of Martha E. Flesschert—to the Committee on Claims.

By Mr. NORTHWAY: A bill (H. R. 8370) to increase the pension of Isaac C. Gibbons—to the Committee on Invalid Pensions.

By Mr. QUIGG: A bill (H. R. 8371) for the relief of Francis Irsch—to the Committee on Military Affairs.

By Mr. TRACEY: A bill (H. R. 8372) for the relief of B. F. Follin—to the Committee on Military Affairs.

By Mr. VAN VOORHIS: A bill (H. R. 8373) granting a pension to Jane Linn—to the Committee on Invalid Pensions.

By Mr. WALSH: A bill (H. R. 8374) for the relief of Edward McDermott—to the Committee on Military Affairs.

By Mr. WATSON of Ohio: A bill (H. R. 8375) granting a pension to William S. Laney—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8376) granting a pension to Charles S. Spring—to the Committee on Invalid Pensions.

By Mr. WOOMER: A bill (H. R. 8377) for the relief of Joseph Betz—to the Committee on Military Affairs.

Also, a bill (H. R. 8378) for the relief of Jacob Olmstead—to the Committee on Military Affairs.

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. ACHESON: Petiton of Benjamin Keefer, sr., and other citizens of Freed, Pa.; also petition of Mrs. Mary A. Wiley, of Monongahela, Pa., praying that religious publications be given every advantage of the act of Congress of July 16, 1894, in transmission through the mail—to the Committee on the Post-Office and Post-Roads.

Also, memorial of the Philadelphia Maritime Exchange, favoring the passage of the Torrey bankruptcy bill—to the Committee on the Judiciary.

Also, resolutions of General George A. Custer Command, No. 1, Union Veterans' Union, Department of Pennsylvania, opposing the correction of the records of persons who have deserted from the United States Army—to the Committee on Military Affairs.

By Mr. BOWERS: Four petitions of sundry citizens of San Bernardino County, Cal., favoring the occupation of and mining on forest reservations—to the Committee on the Public Lands.

By Mr. CURTIS of Iowa: Petition of 69 citizens of Davenport, Iowa, praying that a pension be granted to C. S. Alvord—to the Committee on Invalid Pensions.

Also, petition of F. S. Shepard, of Davenport, Iowa, praying for favorable action on House bills Nos. 838, 4566, and 5560, to provide 1-cent letter postage per half ounce, and to amend the postal laws relating to second-class and free matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of S. F. Smith, Frank Wilmerton, and 480 other prominent citizens of Davenport, Iowa, praying Congress for the passage of joint resolution No. 11, to amend the Constitution of the United States prohibiting further appropriations to institutions under ecclesiastical control, and remonstrating against appropriating, directly or indirectly, public moneys for sectarian undertakings—to the Committee on the Judiciary.

By Mr. CURTIS of New York: Petition of Miles H. De Long and others, of Schuylersville, N. Y., and vicinity, praying for a pension of $8 per month to every soldier who served ninety days and was honorably discharged and $12 per month to their widows—to the Committee on Invalid Pensions.

By Mr. DALZELL: Two petitions of sundry citizens of Pittsburg, asking for adoption of the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

Also, resolution of Duquesne Post, No. 259, Grand Army of the Republic, in favor of the promotion of Gen. Nelson A. Miles—to the Committee on Military Affairs.

By Mr. DANFORD: Petition of J. B. Gowdy, moderator of the session of the United Presbyterian Church of Knoxville, Jefferson County, Ohio, praying for the appointment of an impartial committee to investigate the labor problem and suggest remedy—to the Committee on Labor.

Also, petition of H. M. Rolls and 80 others, of Bellaire, Ohio, for the passage of House bill No. 6851, appropriating unclaimed pension and bounty money due the estates of deceased colored soldiers to military and educational purposes for the colored people—to the Committee on Military Affairs.

By Mr. HARDY: Papers to accompany House bill No. 7744, to correct the military record of John Bass—to the Committee on Military Affairs.

By Mr. HENRY of Connecticut: Petition of Webb Council, No. 73, Order United American Mechanics, in behalf of the Lodge immigration bill—to the Committee on Immigration and Naturalization.

By Mr. HYDE: Remonstrance of the citizens of Lopez, Wash.; also of citizens of Roslyn, Wash., against the statue of Marquette remaining in Statuary Hall—to the Committee on the Library.

Also, memorial of the Chamber of Commerce of Seattle, Wash., relative to flax culture—to the Committee on Agriculture.

Also, resolutions of Commodore Foote Post, No. 84, Grand Army of the Republic, of Sidney, Wash., asking for the passage of the National Tribune service-pension bill—to the Committee on Invalid Pensions.

Also, memorial of the town council of Cosmopolis, Wash.; also of the town council of Waterville, Wash., urging legislation favorable to the Nicaragua Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. LACEY: Resolutions of the city council of Boone, Iowa, favoring an appropriation to aid an exposition to be held at Omaha, Nebr., during 1898—to the Committee on Appropriations.

By Mr. LOUD: Petition of Andrews-Demarest Seating Company of New York, asking favorable action on House bills Nos. 838, 4566, and 5560, to provide 1-cent letter postage per half ounce, and to amend the postal laws relating to second-class and free matter—to the Committee on the Post-Office and Post-Roads.

By Mr. MERCER: Resolutions of the board of trustees of Rawlins, Wyo.; also of the city council of Boone, Iowa; also of the city council of Aurora, Nebr.; also of the city council of Chamberlain, S. Dak.; also of the Republican State convention of Nebraska, favoring the transmississippi and international exposition of Omaha—to the Committee on Ways and Means.

By Mr. PAYNE: Petition of citizens of Wayne County, N. Y., asking for the passage of House bill for reclassification of railway postal clerks—to the Committee on the Post-Office and Post-Roads.

By Mr. PUGH: Petition of Patton Bros. and sundry other citizens of Catlettsburg, Ky., in favor of the passage of a bill for the adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. QUIGG: Papers to accompany House bill for the relief of Francis Irsch—to the Committee on Military Affairs.

By Mr. STEELE: Petition of William W. Draper and 20 others, of Converse, Ind.; also of Nat Hiatt and 20 other citizens of Fairmount, Ind., praying for favorable action on bills Nos. 4566 and 838, amending the postal laws—to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH of Michigan: Petition of the wholesale houses of Grand Rapids, Mich., praying for favorable action on House bill No. 4566, to amend the postal laws relating to second-class matter; also in favor of bill No. 838, to reduce letter postage to 1 cent per half ounce—to the Committee on the Post-Office and Post-Roads.

By Mr. SULLOWAY: Petition of John G. Cutler and 158 other citizens of Hampton, N. H., praying for a life-saving station at or near Great Boars Head, in the town of Hampton, on the coast of New Hampshire—to the Committee on Interstate and Foreign Commerce.

By Mr. TAWNEY: Petition of Joseph Leicht and 37 others, of the State of Wisconsin, against a certain proposed amendment to the Constitution, relating to the first day of the week; and the recognition in the Constitution of God as the source of power and Jesus Christ as the ruler of all nations—to the Committee on the Judiciary.

SENATE.

WEDNESDAY, *April 22, 1896.*

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The VICE-PRESIDENT resumed the chair.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on motion of Mr. FAULKNER, and by unanimous consent, the further reading was dispensed with.

STATE CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, in response to a resolution of the 8th instant calling for information as to what States under the act of Congress of July 27, 1861, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States," and the joint resolution of March 8, 1862, explanatory thereof, have filed claims in the Treasury Department for interest, discount, and exchange paid by said States upon moneys raised by said States for and expended in raising, equipping, and putting into the field, troops in defense of the Union, etc., transmitting a report of the Auditor for the War Department on the subject; which, with the accompanying paper, was referred to the Committee on the Judiciary, and ordered to be printed.

NANCY G. ALLABACH—VETO MESSAGE.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read:

To the Senate:

I herewith return without my approval Senate bill numbered 894, entitled "An act granting a pension to Nancy G. Allabach."

This bill provides for the payment of a pension of $30 a month to the beneficiary named as the widow of Peter H. Allabach.

This soldier served for nine months in the Army during the war of the rebellion, having also served in the war with Mexico.

He was mustered out of his last service on the 23d day of May, 1863, and died on the 11th of February, 1892.

During his life he made no application for pension on account of disabilities. It is not now claimed that he was in the least disabled as an incident of his military service, nor is it alleged that his death, which occurred nearly twenty-nine years after his discharge from the Army, was in any degree related to such service.

His widow was pensioned after his death under the statute allowing pensions to widows of soldiers of the Mexican war, without reference to the cause of the death of their husbands. Her case is also, indirectly, one of those provided for by the general act passed in 1890, commonly called the dependent pension law.

It is proposed, however, by the special act under consideration to give this widow a pension of $30 a month without the least suggestion of the death or disability of her husband having been caused by his military service, and solely, as far as is discoverable, upon the ground that she is poor and needs the money.

This condition is precisely covered by existing general laws, and if a precedent is to be established by the special legislation proposed I do not see how the same relief as is contained in this bill can be denied to the many thousand widows who, in a similar situation, are now on the pension rolls under general laws.

GROVER CLEVELAND.

EXECUTIVE MANSION, *April 21, 1896.*

The VICE-PRESIDENT. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. GALLINGER. Mr. President, as I understand the matter, Peter H. Allabach was for a considerable time captain of the police force of this Capitol. He had service in two wars, and it has been stated to me, I think authoritatively, that when he was appointed to a position in the Capitol it was upon the written recommendation of General Hancock, with whom he had served in those two wars.

It is likewise stated to me that there was not a moment of the time after the soldier was discharged from the service of the United States that he might not have received a pension on account of disabilities incurred in the service of his country. He was, however, too patriotic to ask for a pension, and went to his death without asking the Government for relief. His widow is poor, in